IN THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Docket Nos. 18-2012, 18-2225, 18-2249, 18-2253, 18-2281, 18-2332, 18-2416, 18-2417, 18-2418, 18-2419, 18-2422, 18-2650, 18-2651, 18-2661, 18-2724, and 19-1385

In re National Football League Players' Concussion Injury Litigation

JOINT APPENDIX Volume X of XIII, Pages JA6280-JA7169

On appeal from Orders of the United States District Court for the Eastern District of Pennsylvania (Hon. Anita B. Brody), in No. 2:14-md-02323-AB and MDL No. 2323

Tobias Barrington Wolff 3501 Sansom Street Philadelphia, PA 19104 (215) 898-7471 Counsel for the Locks Law Firm Gene Locks
Michael Leh
Locks Law Firm
The Curtis Center
601 Walnut Street, Suite 720 East
Philadelphia, PA 19106
(866) 562–5752

Additional counsel representing Appellants:

Steven F. Molo
Eric R. Nitz
Rayiner I. Hashem
MOLOLAMKEN LLP
600 New Hampshire Avenue, N.W.
Washington, D.C. 20037
(202) 556–2000
Counsel for the Faneca Objectors

Michele D. Hangley William T. Hangley HANGLEY ARONCHICK SEGAL PUDLIN & SCHILLER One Logan Square 18th & Cherry Streets, 27th Floor Philadelphia, Pa 19103 Counsel for the Faneca Objectors

John J. Pentz 19 Widow Rites Lane Sudbury, MA 01776 (978) 261–5725 Counsel for the Miller Objectors

Edward W. Cochran COCHRAN & COCHRAN 20030 Marchmont Road Shaker Heights, OH 44122 (216) 751–5546 Counsel for the Miller Objectors

Michael L. McGlamry
POPE MCGLAMRY KILPATRICK
MORRISON & NORWOOD
3391 Peachtree Road, N.E., Suite 300
Atlanta, GA 30326
(404) 523–7706
Counsel for Pope McGlamry

Richard L. Coffman THE COFFMAN LAW FIRM 505 Orleans Street, Suite 505 Beaumont, TX 77701 (409) 833–7700 Counsel for the Armstrong Objectors

Mitchell A. Toups WELLER, GREEN, TOUPS & TERRELL 2615 Calder Street, Suite 400 Beaumont, TX 77702 (409) 838–0101 Counsel for the Armstrong Objectors

Mike Warner
THE WARNER LAW FIRM
101 Southeast 11th Avenue, Suite 301
Amarillo, TX 79101
(806) 372–2595
Counsel for the Armstrong Objectors

Jason C. Webster
THE WEBSTER LAW FIRM
6200 Savoy, Suite 515
Houston, TX 77036
(713) 581–3900
Counsel for the Armstrong Objectors

Charles L. Becker KLINE & SPECTER 1525 Locust Street Philadelphia, PA 19102 (215) 772–1000 Counsel for the Aldridge Objectors

Lance H. Lubel Adam Voyles LUBEL VOYLES LLP 675 Bering Drive Houston, TX 77057 (713) 284–5200 Counsel for the Aldridge Objectors

Mickey L. Washington WASHINGTON & ASSOCIATES, PLLC 2109 Wichita Street Houston, TX 77004 (713) 225–1838 Counsel for the Aldridge Objectors

Gaetan J. Alfano Kevin E. Raphael Alexander M. Owens PIETRAGALLO GORDON ALFANO BOSICK & RASPANTI 1818 Market Street Philadelphia, PA 19103 (215) 320–6200 Counsel for Anapol Weiss, P.C.

Linda S. Mullenix 2305 Barton Creek Boulevard Austin, Texas 78735 Counsel for Sean Considine George W. Cochran LAW OFFICE OF GEORGE W. COCHRAN 1385 Russell Drive Streetsboro, OH 44241 (330) 607–5600 Counsel for the Anderson Objectors

Craig R. Mitnick MITNICK LAW OFFICE 35 Kings Highway East Haddonfield, NJ 08033 (856) 427–9000 Counsel for Mitnick Law Office

J. Gordon Rudd, Jr.
Brian C. Gudmundson
Michael J. Laird
ZIMMERMAN REED LLP
1100 IDS Center, 80 S Eighth Street
Minneapolis, MN 55402
Counsel for Zimmerman Reed

Anthony Tarricone KREINDLER & KREINDLER LLP 855 Boylston Street Boston, MA 02116 (617) 424–9100 Counsel for Kreindler & Kreindler LLC

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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

V.

National Football League and NFL Properties, LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB MDL No. 2323

Civil Action No. 2:14-cv-00029-AB

FANECA OBJECTORS' PETITION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES

Pursuant to Fed R. Civ. P. 23(h), objectors Alan Faneca, Roderick "Rock" Cartwright, Jeff Rohrer, and Sean Considine (the "Faneca Objectors")¹ hereby request an award of attorneys' fees and expenses as set forth in the accompanying Faneca Objectors' Memorandum of Law in Support of Petition for an Award of Attorneys' Fees and Expenses.

¹ The Faneca Objectors – Alan Faneca, Roderick Cartwright, Sean Considine, and Jeff Rohrer – were previously known to this Court as the Morey Objectors. At that time, the objector group also included Sean Morey, Ben Hamilton, and Robert Royal. Those three objectors have since opted out of the settlement class.

Dated: January 11, 2017

William T. Hangley
Michele D. Hangley
HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER
One Logan Square
18th & Cherry Streets
27th Floor
Philadelphia, PA 19103
(215) 496-7001 (telephone)
(215) 568-0300 (facsimile)
whangley@hangley.com
mdh@hangley.com

/s/ Steven F. Molo

Steven F. Molo Thomas J. Wiegand MOLOLAMKEN LLP 430 Park Ave. New York, NY 10022 (212) 607-8160 (telephone) (212) 607-8161 (facsimile) smolo@mololamken.com twiegand@mololamken.com

Eric R. Nitz MOLOLAMKEN LLP 600 New Hampshire Ave., NW Washington, DC 20037 (202) 556-2000 (telephone) (202) 556-2001 (facsimile) enitz@mololamken.com

Linda S. Mullenix 2305 Barton Creek Blvd., Unit 2 Austin, TX 78735 (512) 263-9330 (telephone) lmullenix@hotmail.com

Counsel for the Faneca Objectors

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2017, I caused the foregoing Faneca Objectors' Petition for an Award of Attorneys' Fees and Expenses and supporting documents to be filed with the United States District Court for the Eastern District of Pennsylvania via the Court's CM/ECF system, which will provide electronic notice to all counsel and parties.

/s/ Steven F. Molo

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

V.

National Football League and NFL Properties, LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB MDL No. 2323

Civil Action No. 2:14-cv-00029-AB

FANECA OBJECTORS' MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES

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In re Prudential Ins. Co. Am. Sales Practices Litig. Agent Actions, 148 F.3d 283 (3d Cir. 1998)	40, 47
In re Rite Aid Corp. Sec. Litig., 362 F. Supp. 2d 587 (E.D. Pa. 2005)	48
In re Rite Aid Corp. Sec. Litig., 396 F.3d 294 (3d Cir. 2005)	47
Roberts v. Texaco, Inc., 979 F. Supp. 185 (S.D.N.Y. 1997)	48
In re Safety Components, Inc. Sec. Litig., 166 F. Supp. 2d 72 (D.N.J. 2001)	48
In re Schering-Plough Corp. Enhance Sec. Litig., Nos. 08-cv-397, 08-cv-2177, 2013 WL 5505744 (D.N.J. Oct. 1, 2013)	43
In re Shell Oil Refinery, 155 F.R.D. 552 (E.D. La. 1993)	46
Sioux Nation of Indians v. United States, 650 F.2d 244 (Ct. Cl. 1981)	41
Stop & Shop Supermarket Co. v. SmithKline Beecham Corp., No. 03-4578, 2005 WL 1213926 (E.D. Pa. May 19, 2005)	
In re Trans Union Corp. Privacy Litig., 629 F.3d 741 (7th Cir. 2011)	32, 41
White v. Auerbach, 500 F.2d 822 (2d Cir. 1974)	1, 36
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Other Authorities	
7B Charles A. Wright & Arthur Miller, Federal Practice & Procedure § 1803 (3d ed. 2004)	32

Pursuant to Fed. R. Civ. P. 23(h), objectors Alan Faneca, Roderick "Rock" Cartwright, Jeff Rohrer, and Sean Considine respectfully move for an award of attorneys' fees and reimbursement of expenses. "'[I]t is well settled that objectors have a valuable and important role to perform in preventing ... unfavorable settlements, and ... they are entitled to an allowance as compensation for attorneys' fees and expenses where a proper showing has been made that the settlement was improved as a result of their efforts.'" *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 743 (3d Cir. 2001) (quoting *White v. Auerbach*, 500 F.2d 822, 828 (2d Cir. 1974)).

I. INTRODUCTION

This historic litigation attracted international attention.¹ The core allegation – that the billionaire owners of America's most popular professional sport put profit before safety, defrauding players out of their health and well-being – raised awareness of the dangers of sports head injuries at every level of play.² The legal battle that resulted in the Final Settlement not

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¹ See, e.g., Alan Rappeport, NFL Agrees To Settle Concussions Lawsuit for \$765m, Fin. Times (Aug. 29, 2013), https://www.ft.com/content/5974edd6-10dc-11e3-b291-00144feabdc0; Hunter Felt, Concussions Lawsuit Settlement Lets NFL Off the Hook, The Guardian (Aug. 29, 2013), 2013 WLNR 21618288; C.H., Safety in American Football: Back to the Drawing Board, Economist (Feb. 6, 2014), http://www.economist.com/blogs/gametheory/2014/02/safety-american-football; Thomas Barrabi, NFL Concussion Lawsuit Settlement Approved by Federal Judge, Could Cost League \$1B over 65 Years, Int'l Bus. Times (Apr. 22, 2015), http://www.ibtimes.com/nfl-concussion-lawsuit-settlement-approved-federal-judge-could-cost-league-1b-over-65-1892922; Sophia Pearson, NFL's \$987 Million Concussion Settlement Upheld by Appeals Court, The Sydney Morning Herald (Apr. 19, 2016), available at http://www.smh.com.au/sport/us-sports/nfls-987-million-concussion-settlement-upheld-by-appeals-court-20160418-go9hg0.html; Associated Press, Concussion Case Comes to a Head, China Daily (Apr. 20, 2016), http://www.chinadaily.com.cn/cndy/2016-04/20/content_24686586.htm.

² See, e.g., Amy Laskowski, Could Pee-Wee Football Lead to Brain Injury?, BU Today (Sept. 3, 2015) (discussing youth-league football), https://www.bu.edu/today/2015/pee-wee-football-brain-injury; Barney Thompson, Time To Tackle Rugby Injuries, Fin. Times (May 24, 2015) (discussing rugby injuries in light of NFL concussion litigation), https://www.ft.com/content/32959f8c-0070-11e5-a908-00144feabdc0; Ben Strauss, U.S. Soccer, Resolving Lawsuit,

only brought relief for the class, it made the sport safer for those who play it – while decreasing the likelihood of a similar fraud being perpetrated in the future.

The Faneca Objectors come before this Court to request an award of attorneys' fees and costs that reflects the substantial role they played in that battle and in significantly enhancing the Final Settlement.

II. <u>BACKGROUND</u>

The central dispute before this Court was not whether the NFL defrauded its players or whether the injuries suffered by players were caused by that fraud. The central dispute was whether the settlement reached by the NFL and Class Counsel was fair, adequate, and reasonable. The proponents of the settlement presented a powerful case through some of the nation's leading advocates.

The class was represented by several of the country's top mass-tort lawyers. Co-Lead Class Counsel Christopher Seeger, of Seeger Weiss LLP, has been "widely praised for his advocacy skills" and has been described in the legal press as "one of the big players' at the plaintiffs' bar." Joining him in leading the efforts for the class was Sol Weiss, a dean of the Philadelphia tort bar and the recent recipient of the *Legal Intelligencer* Lifetime Achievement

Will Limit Headers for Youth Players, The N.Y. Times (Nov. 9, 2015) (discussing youth soccer), http://www.nytimes.com/2015/11/10/sports/soccer/us-soccer-resolving-lawsuit-will-limit-headers-for-youth-players.html; Lindsay Gibbs, Concussion Expert Says Extent of Brain Damage in Youth Football 'Took My Breath Away', ThinkProgress (Nov. 23, 2016) (discussing high-school football), https://thinkprogress.org/youth-football-concussion-crisis-f2fc701ca204; Chuck Gormley, New Protocol Is Helping Curb Concussions, but NHL Can Do More, Eric Lindros Says, ESPN (Nov. 15, 2016) (discussing professional hockey), http://www.espn.com/nhl/story/_/id/18053749/nhl-new-protocol-helping-curb-concussions-league-do-more-curtail-head-injuries-says-eric-lindros; Motez Bishara, Will Smith: Movie 'Concussion' Touches a Raw Nerve for the NFL, CNN (Jan. 29, 2016) (discussing attention drawn to MTBI and CTE by 2015 Hollywood film "Concussion"), http://edition.cnn.com/2015/12/18/sport/nfl-head-injuries-will-smith-movie-concussion.

³ Chambers & Partners, *Product Liability: Plaintiffs – Nationwide* (discussing Christopher A. Seeger), http://www.chambersandpartners.com/12788/990/editorial/5/1.

Award.⁴ Arnold Levin, named a "Top 100 Trial Lawyer" in Pennsylvania by the professional organization The National Trial Lawyers, served as counsel for the subclass of players who did not already have a diagnosis of an MTBI-related disease.⁵ Dianne Nast, who has been included in the legal publication *The Best Lawyers in America* since 2003, served as counsel for the subclass of players who already had such a diagnosis.⁶ Also representing the class were the prominent attorneys and firms on the Plaintiffs' Executive Committee: Larry Coben of Anapol Schwartz, Thomas Girardi and Graham B. Lippsmith of Girardi Keese, Michael Hausfeld and Richard Lewis of Hausfeld LLP, Gene Locks and David Langfitt of the Locks Law Firm, Ricardo Martinez-Cid and Steven Marks of Podhurst Orseck, and David Buchanan of Seeger Weiss. Counsel for the plaintiffs also worked with one of the nation's acclaimed academic experts on class action practice, Prof. Samuel Issacharoff of New York University Law School.

The NFL was represented by one of the nation's premier law firms, Paul, Weiss, Rifkind, Wharton & Garrison LLP, described in the legal press as a "formidable courtroom advocate[]" and a "preeminent litigation firm." The Paul Weiss team was led by the firm's chairman, Brad Karp, who has been called "one of the 'country's lead lawyers' when it comes to litigating bet-the-company cases," as well as senior partner Bruce Birenboim, recognized by legal publication

⁴Lifetime Achievement Award Winners, The Legal Intelligencer (June 20, 2016),

http://www.americanregistry.com/recognition/top-100-trial-lawyers-pennsylvania/104311.

http://www.thelegalintelligencer.com/id=1202760308387/lifetime-achievement-award-winners.
⁵ See Am. Registry, *Top 100 Trial Lawyers: Pennsylvania* (Mar. 2010) (listing Arnold Levin),

⁶ Am. Bar Ass'n, *Philadelphia Lawyer Dianne Nast To Receive TIPS's Pursuit of Justice Award* (Apr. 20, 2015) (discussing Dianne Nast), http://www.americanbar.org/news/abanews/aba-news-archives/2015/04/philadelphia lawyer.html.

⁷ See Chambers & Partners, Litigation: Securities – New York (discussing Paul Weiss), http://www.chambersandpartners.com/12806/413/editorial/5/1.

⁸ Chambers & Partners, *USA Guide* (profile of Brad S. Karp), http://www.chambersandpartners.com/USA/person/194898/brad-s-karp.

Lawdragon as one of the 500 Leading Lawyers in America since 2013. The NFL defense team included additional exceptional talent from the firm Dechert LLP, whose efforts were led by Robert C. Heim, described as "one of Pennsylvania's leading trial lawyers," and from Quinn Emanuel Urquhart & Sullivan LLP, whose efforts were led by Sheila Birnbaum, recognized as "one of the great thought leaders" of the products liability defense bar. The NFL legal team also included one of the nation's most distinguished appellate lawyers, Paul Clement, former Solicitor General of the United States.

Class Counsel and counsel for the NFL engaged in preliminary motion practice, briefing and arguing a motion to dismiss on the question of whether federal labor law preempted the action. Then, at the direction of this Court, the matter proceeded to mediation and the case was settled. There was no decision on the motion to dismiss, no discovery, no contested class certification, no summary judgment practice, and no bellwether trial. Thus, this case was *all about* the negotiated settlement.

However, as this Court recognized *sua sponte*, the Initial Settlement was inadequate. Then came a modified settlement. But the Faneca Objectors proved that inadequate as well. They:

- Raised the key legal issues, a number of which were novel and complex, early;
- Supported their challenge with extensive scientific evidence and legal analysis;
- Sought discovery to inform the proceedings with evidence relating not only to the settlement negotiations but the underlying claims as well;

⁹ Chambers & Partners, *USA Guide* (profile of Robert C. Heim), http://www.chambersand.partners.com/USA/person/179257/robert-c-heim.

¹⁰ Chambers & Partners, *Product Liability & Mass Torts – Nationwide* (discussing Sheila Birnbaum), http://www.chambersandpartners.com/12788/1802/editorial/5/1.

- Led the objectors' efforts at the fairness hearing and in post-hearing briefing that brought about the revised Final Settlement, with a value enhanced by more than \$100 million;
- Tested the possibility of a further enhanced settlement through independent negotiations with the NFL; and
- Led the efforts to test the Final Settlement on appeal.

The substantial work by the Faneca Objectors occurred over a period of three years. They pushed the proceedings, often filing pleadings before deadlines in an effort to expedite a resolution and accelerate relief to the injured class. Counsel for the Faneca Objectors – MoloLamken LLP, Hangley Aronchick Segal Pudlin & Schiller, and Prof. Linda S. Mullenix – expended a total of more than 6,300 hours and absorbed out-of-pocket costs of more than \$50,000 in the battle. They did so working on a 100% contingency basis, with full risk of non-payment.

Their extensive work "transform[ed] the settlement hearing into a truly adversarial proceeding." *Dewey v. Volkswagen of Am.*, 909 F. Supp. 2d 373, 395 (D.N.J. 2012) (quotation marks omitted) (awarding objectors' counsel fees). The result of that "truly adversarial" fairness hearing is a vastly improved Final Settlement that provides more relief for a far greater number of class members than the deals previously advanced by the settling parties. Moreover, it is a Final Settlement that has had its fairness tested in the crucible of robust, high-level advocacy – allowing the courts, class members, and the public to conclude that the result achieved, while perhaps not perfect, is just.

III. PROCEDURAL HISTORY

A. The Precursor Lawsuits and the Initial Settlement

In 2011, several retired NFL players and their families sued the NFL, alleging that the NFL misled them about the risks of repeated multiple traumatic brain injury ("MTBI"), thus

breaching its duty to protect players' health and safety. Dkt. 6073-5 at 4. Those cases were consolidated in this Court on January 31, 2012. Dkt. 1. The NFL moved to dismiss the complaints on preemption grounds. Dkts. 3590, 4737, 4738. While that motion was pending, this Court ordered the parties to mediation and appointed retired United States District Court Judge Layn Phillips as mediator. Class Counsel and the NFL announced the Initial Settlement in August 2013. Dkt. 6201 at 4.

On January 6, 2014, Class Counsel filed a putative class action complaint on behalf of Kevin Turner and Shawn Wooden as representatives for all retired NFL players. *See* Complaint, *Turner v. Nat'l Football League*, No. 2:14-cv-29 (E.D. Pa. filed Jan. 6, 2014) ("Class Action Complaint"). Class Counsel simultaneously filed a motion for preliminary approval of the Initial Settlement. Dkt. 5634. The Initial Settlement created a Monetary Award Fund ("MAF") – capped at \$675 million – to provide compensation for retired players diagnosed with one of five specific Qualifying Diagnoses. Dkt. 5634-5 at 3. Despite the numerous diseases and symptoms linked to MTBI in the Class Action Complaint, the MAF provided awards only for individuals diagnosed with ALS, Parkinson's disease, Alzheimer's disease, and sufficiently severe dementia (dubbed "Level 1.5" and "Level 2" neurocognitive impairment). *Id*.

Absent from the Initial Settlement was any ongoing award for retired players diagnosed with chronic traumatic encephalopathy ("CTE"), the disease at the heart of the Class Action Complaint and many of the precursor lawsuits. Dkt. 5634-5 at 3-4. Instead, the Initial Settlement provided compensation – by way of a "Death with CTE" qualifying diagnosis – only for players who died and received a post-mortem diagnosis of CTE before preliminary approval of the settlement. *Id.* at 11.

The Initial Settlement also applied several criteria to determine each claimant's award. There was a maximum award for each Qualifying Diagnosis. But that award would be reduced depending on the player's age and the number of seasons he played in the NFL (with at least five "eligible seasons" being required for a full award). Dkt. 5634-5 at 13, 19. The Initial Settlement "specifically excluded" seasons played in NFL Europe (or the NFL's other European leagues) from eligible-season credit, even though it fully released players' claims for injuries suffered during those seasons. *Id.* at 20, 26-27. The Initial Settlement also reduced awards by 75% for any player who suffered a single stroke, or a single instance of traumatic brain injury not related to NFL play. *Id.* at 20-21. Finally, it imposed a \$1,000 fee on class members who wished to appeal adverse determinations of their MAF claims. *Id.* at 22.

Additionally, the Initial Settlement created a \$75-million Baseline Assessment Program Fund ("BAP Fund"), which was to provide eligible players with an examination to establish a baseline for each player's neurocognitive functioning. Dkt. 5634-5 at 3. But not every class member was entitled to such an examination. Only class members with at least half of an eligible season could participate in the BAP. *Id.* at 15-16. The BAP examination would also screen players for dementia or neurocognitive impairment. *Id.* at 16. Players diagnosed with "Level 1" neurocognitive impairment by the examination could receive "supplemental benefits" to cover the cost of treatment. *Id.* The Initial Settlement applied a \$75-million cap on those benefits.

On January 14, 2014, this Court *sua sponte* denied the motion for preliminary approval. *In re Nat'l Football League Players' Concussion Injury Litig.*, 961 F. Supp. 2d 708, 716 (E.D. Pa. 2014). Noting its "duty to protect the rights of all potential class members," *id.* at 710, the Court found that the Initial Settlement could not be preliminarily approved because the

"Monetary Award Fund may lack the necessary funds to pay Monetary Awards for Qualifying Diagnoses," *id.* at 715.

B. The Faneca Objectors' Efforts To Improve the Settlement

1. The Motion To Intervene

On May 5, 2014, seven former NFL players (the "Faneca Objectors") represented by MoloLamken, Hangley Aronchick Segal Pudlin & Schiller, and Prof. Linda Mullenix, filed a 27-page motion seeking leave to intervene in this case. Dkt. 6019-1. The Faneca Objectors initially included retired NFL players Sean Morey, Alan Faneca, Ben Hamilton, Robert Royal, Roderick Cartwright, Jeff Rohrer, and Sean Considine. Since leaving the NFL, all of the Faneca Objectors had suffered MTBI-related symptoms, including symptoms indicative of CTE. *Id.* at 5. In their motion to intervene, the Faneca Objectors explained that their interests were not adequately represented in the negotiation of the Initial Settlement, as evidenced by the significant intra-class conflicts in the settlement. *Id.* at 14-21. They explained that they were at risk of developing CTE. Because the Initial Settlement would not have compensated CTE victims except for players who died before preliminary approval, the Faneca Objectors argued that their interests were not adequately represented by the proposed class representatives – neither of whom had claimed a risk of developing CTE. *Id.* at 6. The Faneca Objectors also noted the potential intra-class conflict created by the 75% reductions for stroke or non-NFL TBI, given

¹¹ In earlier proceedings, this Court referred to the Faneca Objectors as the Morey Objectors. Sean Morey participated in the proceedings along with the other Faneca Objectors until he opted out of the settlement on October 14, 2014. Ben Hamilton and Robert Royal also opted out. Thus, throughout this submission, the clients of MoloLamken, Hangley Aronchick Segal Pudlin & Schiller, and Prof. Linda Mullenix are referred to as the Faneca Objectors.

that neither class representative had stated that he would be subject to them. *Id.* at 19-21. That was the first time any party had identified those potential intra-class conflicts in the settlement.¹²

2. The Opposition to Preliminary Approval

On June 25, 2014 – while the Faneca Objectors' motion to intervene was still pending – Class Counsel submitted the Revised Settlement, along with a motion for preliminary approval. Dkt. 6073-2. The Revised Settlement addressed the district court's concerns over the Initial Settlement's inability to satisfy all class members' claims by eliminating the \$675-million cap on the MAF. However, Class Counsel maintained that the total compensation under the settlement would not exceed \$675 million. Dkt. 6073-5 at 12-13. The Revised Settlement also retained the \$75-million cap on the BAP Fund, *id.* at 4, continued to deny any credit for seasons played in NFL Europe, Dkt. 6087 §2.1(kk), and retained the 75% reductions for stroke or non-NFL TBI, *id.* §6.7(b)(ii)-(iii).

Just one week after the motion for preliminary approval of the Revised Settlement was filed, on July 2, 2014, the Faneca Objectors filed a 47-page opposition to that motion. Dkt. 6082. They were the first – *and only* – class members to oppose preliminary approval. Expanding on their motion to intervene, they reiterated that the Revised Settlement's failure to provide any compensation for CTE in the living or for those who died with CTE following the preliminary approval date created an impermissible intra-class conflict that precluded certification of the settlement class under Rule 23(a)(4). *Id.* at 19-26.¹³ Similarly, the Faneca

¹² Class Counsel opposed the motion to intervene, Dkt. 6046, but the NFL did not. The Faneca Objectors sought leave to file a reply on May 27, 2014, attaching the proposed reply as an exhibit. Dkt. 6047. This Court granted leave and ordered the proposed reply to be deemed filed on July 29, 2014. Dkt. 6106. It denied the motion to intervene on the same day. Dkt. 6107.

¹³ The Faneca Objectors provided detailed scientific analysis concerning the nature and symptoms of CTE and its relationship to repetitive head injury. Dkt. 6082 at 7-11, 21-23, 27; *see id.* at v-ix. They were the first class members to identify such scientific evidence for the Court.

Objectors reiterated their objections to the 75% reductions.¹⁴ The Faneca Objectors also objected to the Revised Settlement's failure to credit seasons played in NFL Europe, thereby reducing awards. *Id.* at 28-29.¹⁵ Because neither representative plaintiff had played in NFL Europe, the Faneca Objectors argued that an intra-class conflict existed and that adequate representation was lacking under Fed. R. Civ. P. 23(a)(4). And they raised objections to unnecessary procedural hurdles that threatened to unfairly impede recovery under the settlement, such as the fee to appeal an adverse claim determination. *Id.* at 32-35.

On July 7, 2014, this Court granted preliminary approval to the Revised Settlement and conditionally certified the class "for settlement purposes only." Dkt. 6084.

3. The Rule 23(f) Petition to the Third Circuit

The Faneca Objectors sought appellate review of that order under Fed. R. Civ. P. 23(f). Case No. 14-8103, Doc. 003111686114 (3d Cir. July 21, 2014). On the merits, the Faneca Objectors raised the same concerns as in their motion to intervene and opposition to preliminary approval: they challenged the settlement's treatment of CTE, lack of NFL Europe credit, and the 75% reductions, arguing that the settlement created intra-class conflicts that precluded class certification under Rule 23(a)(4). *Id.* at 10-16. The petition also raised an important legal issue of first impression in the Third Circuit: whether Rule 23(f) permits interlocutory review of an

¹⁴ The Faneca Objectors maintained their objection that the 75% reductions created an intra-class conflict (between players who had suffered prior strokes or non-NFL TBI and those who had not) that the settlement failed to remedy. Dkt. 6082 at 26-27.

¹⁵ Under the Revised Settlement, class members who played in NFL Europe (and its predecessor leagues) would not have received any eligible-season credit for seasons they played in those leagues. Dkt. 6073-2 §2.1(kk). Because the settlement tied monetary awards to a player's eligible seasons, those players would receive greatly reduced monetary awards. *Id.* §6.7(b)(i). For example, a class member who played only in NFL Europe would have had zero eligible seasons, triggering a *97.5% reduction* in any award that player would receive from the MAF. Such a class member also could not participate in the BAP, which is available only to class members with half an eligible season. *Id.* §5.1.

order "conditionally" or "preliminarily" certifying a class. *In re Nat'l Football League Players' Concussion Injury Litig.*, 775 F.3d 570, 578 (3d Cir. 2014). No other objector sought review of the preliminary approval order.

Oral argument was held in a special sitting on September 10, 2014. On September 11, 2014, the Third Circuit found that it lacked jurisdiction to hear the petition. It held that Rule 23(f) permits appeals only of "final" class-certification orders issued pursuant to Rule 23(c). 775 F.3d at 588. That ruling was so significant that it became the subject of consideration by the Advisory Committee on Civil Rules. Importantly, the petition did not delay the proceedings in this Court.

4. The Objection

Following denial of their Rule 23(f) petition, the Faneca Objectors redoubled their efforts in this Court to improve the settlement. On September 13, 2014, they filed a motion seeking limited discovery to obtain information from Class Counsel and the NFL that was necessary to evaluate the fairness of the settlement. Dkt. 6169. The Faneca Objectors noted that Class Counsel had conducted no discovery before settling and sought the information Class Counsel and the NFL relied upon to justify the settlement. Dkt. 6169-1 at 2. The Faneca Objectors thus urged the Court to permit limited discovery into (1) how the settlement was negotiated and (2) the strengths and weaknesses of the NFL's defenses, to allow class members to properly evaluate the Revised Settlement. *Id.* at 8. The Faneca Objectors prepared proposed interrogatories, document requests, and notices of depositions, which they attached to the motion. Dkt. 6169-2. This Court denied the discovery motion on October 15, 2014. Dkt. 6245.

¹⁶ In 2016, the Advisory Committee on Civil Rules recommended that the Committee on Rules of Practice and Procedure approve and publish amendments to Rule 23(f) that would resolve precisely the question raised by the Faneca Objectors in their appeal. *See* Mem. from Hon. John D. Bates to Hon. Jeffrey S. Sutton (May 12, 2016).

On October 6, 2014 – more than *a week before the objection deadline* set by this Court – the Faneca Objectors filed their comprehensive objection to final approval of the Revised Settlement. Dkt. 6201. The objection exceeded 85 pages and was supported by 82 exhibits totaling more than 700 pages. The objection again addressed the settlement's defects: the failure to meaningfully compensate CTE, the 75% reductions, and the lack of credit for NFL Europe play. Dkt. 6201 at 20-36, 54-84. It also noted other problems: the cap on the BAP Fund could prevent some eligible players from receiving the baseline examination, *id.* at 72-73, and the \$1,000 fee for appealing adverse claim determinations could cause undue hardship, *id.* at 76-77. The objection also challenged aspects of the class notice. *Id.* at 38-54.

The Faneca Objectors worked with two leading neuroscientists, Dr. Robert Stern and Dr. Sam Gandy, who submitted declarations in support of the objection. *See* Dkts. 6201-16, 6232-1.¹⁷ Dr. Stern is a Professor of Neurology, Neurosurgery, and Anatomy & Neurobiology at Boston University School of Medicine. He is a co-founder of the BU Center for the Study of Chronic Traumatic Encephalopathy, and a leading expert in the causes of neurodegeneration in athletes. Dr. Gandy is Professor of Alzheimer's Disease Research and Professor of Neurology and Psychiatry at Mt. Sinai School of Medicine. He is also Associate Director of the Mount Sinai Alzheimer's Disease Research Center.

Dr. Stern and Dr. Gandy explained the science behind CTE, how it is a disease that is widely recognized in the scientific community, and the debilitating consequences of the disease. Dkts. 6201-16, 6232-1. Those declarations were the first scientific evidence presented by class members in the case – long before Class Counsel or the NFL offered any expert evidence. In addition to those declarations, the Faneca Objectors provided the Court with extensive scientific

¹⁷ Dr. Gandy's declaration was filed as a supplement to the Faneca Objectors' objection, but still prior to the deadline for filing objections. Dkt. 6232.

evidence supporting Drs. Gandy and Stern.¹⁸ The Faneca Objectors thus effectively framed the scientific debate.

Eighty-two other objections were filed in the proceeding. Nearly all prepared by counsel were filed *at least one week after* that of the Faneca Objectors. And *none* included an original expert declaration.¹⁹

5. The Pre-Fairness Hearing Proceedings

On October 21, 2014, the Faneca Objectors filed a motion seeking to require the settling parties to produce evidence in advance of the November 19, 2014 fairness hearing. Dkt. 6252. The Faneca Objectors noted that Class Counsel's failure to conduct discovery had left class members in the dark, unable to evaluate the fairness of the Revised Settlement. *Id.* at 2. The Faneca Objectors thus sought from Class Counsel and the NFL, in advance of the fairness hearing, (1) the name, contact information, and a summary of the testimony of any witness they intended to call at the fairness hearing; (2) expert declarations setting forth the basis of any expert testimony they would offer at the hearing; and (3) any documents they intended to introduce at the hearing. *Id.* at 3. The NFL and Class Counsel filed oppositions to the motion on October 31, 2014. Dkts. 6332, 6333. This Court denied the motion on April 21, 2015. Dkt. 6508.

On November 3, 2014, the Faneca Objectors filed their notice of intent to appear at the fairness hearing. Seeking to further develop the record, they requested that this Court conduct an evidentiary hearing – offering the expert testimony of Drs. Stern and Gandy, along with

¹⁸ See Dkt. 6201-1, Exs. 5-23, 59-67, 70, 80, 85, 87, and 89.

¹⁹ The Chesley Objectors, represented by Zuckerman Spaeder LLP, attached to their filing a copy of the Declaration of Dr. Robert Stern, which was originally prepared for and filed as part of the Faneca Objectors' objection. Dkt. 6242-1. They did so without disclosing its actual source – the Faneca Objectors' filing – fostering a misimpression that this was evidence they obtained themselves instead of borrowing from the Faneca Objectors.

testimony from former NFL players Alan Faneca and Sean Morey, as well as Rebecca Carpenter (daughter of deceased player Lewis Carpenter, who had CTE). Dkt. 6339 at 3-6. They also requested the opportunity to cross-examine Co-Lead Class Counsel and former members of the NFL's MTBI Committee. *Id.* at 8-9. The Court denied that request on November 17, 2014. Dkt. 6428.²⁰

On November 4, 2014, this Court appointed Steven Molo of MoloLamken and William Hangley of Hangley Aronchick Segal Pudlin & Schiller, counsel for the Faneca Objectors, to coordinate arguments on behalf of all objectors at the fairness hearing. Dkt. 6344. In that capacity, Mr. Molo held multiple phone conferences with the Court and the NFL and Class Counsel, as well as with the other objectors. Mr. Molo coordinated with the other objectors to plan the content and sequence of each objector's presentation at the fairness hearing.

On November 11, 2014, the Faneca Objectors filed a supplement to their October 6, 2014 objection. Dkt. 6420. They offered additional evidence that the NFL could pay a much larger judgment – a factor weighing against final approval of the Revised Settlement. *Id.* at 3-9. They also suggested specific, concrete improvements to the Revised Settlement: uncapping the BAP Fund, giving credit for seasons played in NFL Europe, and compensating all cases of Death with CTE. *Id.* at 9-10.

6. The Fairness Hearing and Post-Hearing Submissions

On November 19, 2014, this Court conducted the fairness hearing. Steven Molo made the primary argument for objectors. He addressed CTE, the exclusion of NFL Europe, notice, and the 75% reductions. MoloLamken lawyers Thomas Wiegand and Martin Totaro addressed deficiencies in the settlement process, including the cap on the BAP Fund and the \$1,000 appeal

²⁰ The Court did permit Ms. Carpenter to address the Court at the fairness hearing.

fee imposed on class members. Dkt. 6428 at 1; Dkt. 6469 at 32-33; Dkt. 6463 at 112:13-114:15. The Faneca Objectors emphasized that, while some sort of settlement was desirable, the Revised Settlement could not be approved without improvements. Dkt. 6463 at 69-71.

The Faneca Objectors vigorously challenged the case for final approval presented by Class Counsel and the NFL. They relied on and explained the extensive scientific studies and expert declarations submitted in their papers. The Faneca Objectors concluded by urging this Court to use its influence to secure further improvements to the settlement. They provided the Court with specific proposals for improving the settlement: eliminating the cap on the BAP Fund, Dkt. 6463 at 108:19-23; giving credit for seasons played in NFL Europe, *id.* at 102:20-21; using evidence-based reductions for stroke and TBI, *id.* at 102:23-103:2; extending the benefit for Death with CTE, *id.* at 103:3-11; and adding a hardship provision for players who cannot afford the appeal fee, *id.* at 112:14-21. *See also* Dkt. 6469 at 28, 33, 37. Several other objectors made short presentations.

On December 2, 2014, the Faneca Objectors filed a 30-page supplemental objection. Dkt. 6455. They offered *still more scientific evidence regarding CTE* and the injuries associated with repetitive head injury. That evidence included additional declarations from Drs. Stern and Gandy regarding the causes and symptoms of CTE. It also included the declarations of nine additional prominent scientists and researchers – all at the top of their fields and all experts on brain injury and neurodegenerative disease:

- Patrick R. Hof, MD, who is the Regenstreif Professor of Neuroscience at the Icahn School of Medicine at Mount Sinai, New York. Dr. Hof has authored or co-authored over four hundred papers and publications in the field of neurology. Dkt. 6455-3.
- Jing Zhang, MD, PhD, who is the Endowed Chair of Neuropathology at the University of Washington. Dr. Zhang is one of the leading researchers in the field of using biomarkers to detect neurodegenerative disease. Dkt. 6455-4.

- Martha E. Shenton, PhD, who is a Professor in the Department of Psychiatry and Radiology at the Brigham and Women's Hospital and Harvard Medical School. Professor Shenton has received numerous awards for her neurology and psychiatry studies. Dkt. 6455-5.
- Charles Bernick, MD, MPH, who serves as the Associate Director at the Cleveland Clinic Lou Ruvo Center for Brain Health. Dkt. 6455-6.
- Michael Weiner, MD, who is a Professor of Radiology and Biomedical Engineering, Medicine, Psychiatry, and Neurology at the University of California, San Francisco. Dr. Weiner has published extensively on the use of neuroimaging to study neurocognitive impairment and neurodegenerative disease. Dkt. 6455-7.
- James R. Stone, MD, PhD, who serves as Associate Professor of Radiology and Medical Imaging as well as of Neurological Surgery at the University of Virginia. A leader in the field of sports-related MTBI, Dr. Stone serves as the co-director of the Brain Injury and Sports Concussion Institute. Dkt. 6455-8.
- Thomas Wisniewski, MD, who is a Professor of Neurology, Pathology, and Psychiatry at New York University School of Medicine. Dr. Wisniewski is an expert on neurodegenerative diseases and is the co-director of the NIH-funded Alzheimer's Disease Center at NYU. Dkt. 6455-9.
- Steven T. DeKosky, MD, who served as the Dean of the University of Virginia School of Medicine until 2013, and who is currently the Aerts-Cosper Professor of Alzheimer's Research at the University of Florida College of Medicine. He has published extensively on CTE and other neurodegenerative diseases. Dkt. 6455-10.
- Dr. Wayne Gordon, PhD, who is the Jack Nash Professor and Vice Chair of the Department of Rehabilitation Medicine at the Icahn School of Medicine at Mount Sinai in New York. Dkt. 6455-11.

Those experts described the scientific consensus concerning CTE. They opined that the science of CTE is advancing and that a reliable diagnosis for CTE will be available before the settlement expires. Dkt. 6455 at 17. The Faneca Objectors also offered into the record 27 exhibits, including further scientific studies – in addition to those they submitted in support of their initial objection – to underscore those points. Dkt. 6455-13 to 23.

The supplemental briefing also argued that the failure to credit NFL Europe play rendered the settlement unfair. Dkt. 6455 at 20-22. And it reiterated the Faneca Objectors' concern that the BAP Fund might be exhausted before every entitled class member received a

baseline examination. *Id.* at 22. The Faneca Objectors again suggested concrete improvements to the settlement. Those included (1) lifting the monetary cap on the BAP Fund; (2) extending the BAP to the full term of the settlement; (3) affording credit for seasons played in NFL Europe; (4) eliminating the fee for class members appealing adverse claim determinations; (5) compensating CTE in the living once reliable tests exist; and (6) eliminating CTE from the release. *Id.* at 30-31.

C. Final Approval of the Settlement Adopting Changes Urged by the Faneca Objectors

1. The Court-Recommended Improvements

Upon considering the evidence and arguments, this Court issued an order identifying five specific improvements to the settlement that would, in the Court's view, "enhance the fairness, reasonableness, and adequacy of" the Revised Settlement. Dkt. 6479. It stated that the "settlement should provide for some Eligible Seasons credit for play in the World League of American Football, the NFL Europe League, and the NFL Europa league." *Id.* at 2. It further stated that the "settlement should assure that all living Retired NFL Football Players who timely register for the Settlement" receive a BAP baseline examination. *Id.* It urged that the "Qualifying Diagnosis of Death with CTE" should include players who die between the dates of preliminary approval and final approval. *Id.* And it recommended that the settlement provide a hardship provision for the appeal fee, as well as an accommodation for class members who do not possess required medical records due to *force majeure* events. *Id.* Each of those recommendations, save for the one concerning *force majeure* events, addressed settlement defects raised first and most fully by the Faneca Objectors.

2. The Final Settlement

On February 13, 2015, Class Counsel and the NFL submitted a further revised Final Settlement. Dkt. 6481. The Final Settlement amended the Revised Settlement agreement to

address each of the Court's suggestions. It ensured that *every* retired player eligible to receive a BAP examination would receive one, even if the cost of all examinations exceeded the \$75-million cap on the BAP Fund. *Id.* at 4. It also provided one-half an eligible-season credit for any player who was on an NFL Europe roster for three or more regular or postseason games, or was on an active roster for one regular or postseason game and subsequently was on an injured reserve list or an inactive list for two games due to a concussion or head injury. *Id.* at 2. The Final Settlement also extended eligibility for diagnoses of Death with CTE to players who died before the date of *final* approval, rather than *preliminary* approval. *Id.* at 4-5.²¹ And it adopted the Court's recommendations regarding the appeal-fee hardship provision, *id.* at 5, and the unavailability of medical records due to *force majeure* events, *id.* at 5-6. This Court granted final approval to this Final Settlement on April 22, 2015, and also certified the class for settlement purposes. Dkt. 6510.

D. The Faneca Objectors' Separate Negotiations with the NFL

The Faneca Objectors' attempts to improve the settlement did not stop with this Court's order granting final approval. MoloLamken, counsel for the Faneca Objectors, reached out to Class Counsel and received their blessing to attempt further negotiations with the NFL to address the Faneca Objectors' remaining concerns. Rather than immediately file a notice of appeal, MoloLamken used the possibility of not appealing as leverage in an effort to negotiate a better settlement.

In the month following final approval, attorneys from MoloLamken met several times in person and over the phone with the NFL's counsel. MoloLamken proposed means to address the Faneca Objectors' concerns regarding the settlement's treatment of CTE as well as creative ways

²¹ Ultimately, this change extended the qualifying period for a Death with CTE award by over nine months, from July 7, 2014 (preliminary approval) until April 22, 2015 (final approval).

to fund those improvements and thus make them more appealing to the NFL. MoloLamken offered two separate, specific alternatives to the NFL that created the opportunity to provide additional funds to address class members' injuries. The proposals were concrete, not abstract, citing to specific sources of funds and were provided to the NFL in writing. The NFL considered those revisions, going back and forth with MoloLamken, but ultimately rejected them. Molo Decl. ¶¶36-37.

E. The Third Circuit Appeal

In May 2015, twelve groups of objectors – including the Faneca Objectors – appealed the final approval order. On appeal, the Faneca Objectors argued that the settlement's treatment of CTE was not fair, reasonable, and adequate under Rule 23(e), Faneca CA3 Br., No. 15-2304, at 37-46, and that the Final Settlement could not be approved under the Third Circuit's *Girsh* analysis, *id.* at 52-60. They also maintained their argument that the class lacked adequate representation because of persistent intra-class conflicts with respect to CTE and the 75% reductions. *Id.* at 29-37, 47-50. In support of those arguments, the Faneca Objectors cited to the extensive scientific evidence they had submitted to the district court, including their thirteen declarations from leading experts. Other appealing objectors relied heavily on the evidentiary record that had been compiled by the Faneca Objectors.²²

The Third Circuit heard oral argument on November 19, 2015. The extended hearing allowed for a total of two hours of argument. The Faneca Objectors took the lead at oral

²² See, e.g., Armstrong CA3 Br., No. 15-2272, at 6-11, 13-14, 18-19, 34-36; Jones CA3 Br., No. 15-2291, at 4. Others adopted the Faneca Objectors' arguments by reference. See Heimburger CA3 Br., No. 15-2206, at 5; Carrington CA3 Br., No. 15-2234, at 6, 11, 15; Armstrong CA3 Br., No. 15-2272, at 5 n.1; Anderson CA3 Br., No. 15-2230, at 25. Several objectors filed appeals to the Third Circuit. Their briefs were either duplicative of the issues raised by the Faneca Objectors – first in this Court and then on appeal – or raised minor issues that were unlikely to, and indeed did not, receive serious attention by the Third Circuit.

argument, addressing the settlement's fundamental fairness under Rule 23(e), adequacy of representation, and, specifically, addressing the CTE issue. On April 18, 2016 (amended May 2, 2016), in a 70-page opinion, the Third Circuit affirmed this Court's order granting final approval as to all issues. *See In re Nat'l Football League Players' Concussion Injury Litig.*, 821 F.3d 410 (3d Cir. 2016). Because the Faneca Objectors recognized the lack of issues that would result in Supreme Court review and because they did not want to delay class members' receipt of the settlement's benefits, the Faneca Objectors did not file a petition for a writ of *certiorari*. The settlement had been improved substantially as a result of their efforts and its fairness had been tested through their vigorous advocacy: their job was done.²³

Recognizing the serious nature of class members' injuries and the need for prompt relief, the Faneca Objectors at all times proceeded with deliberate speed – often filing papers before established deadlines and always attempting to move the process forward. Their (correct) decision to neither seek rehearing nor petition the Supreme Court for review was consistent with that approach.

IV. THE INCREASE IN THE SETTLEMENT'S VALUE

The improvements to the Final Settlement brought about by the efforts of the Faneca Objectors can fairly be valued in excess of \$100 million. Based on the arguments made by the Faneca Objectors, this Court encouraged the settling parties to permit NFL Europe players to

²³ Two groups of objectors – the Miller Objectors, represented by John J. Pentz, and Darren R. Carrington, represented by the Law Offices of Darrell Palmer PC – filed petitions for rehearing, which were denied on June 1, 2016. Order, *In re Nat'l Football League Players' Concussion Injury Litig.*, No. 15-2217 (3d Cir. June 1, 2016). Those petitions for rehearing delayed implementation of the settlement by one month. Two other groups of objectors – the Armstrong Objectors, represented by Gupta Wessler PLLC, and the Estate of Carlton Chester "Cookie" Gilchrist, represented by Cullin O'Brien Law, P.A. – filed petitions for *certiorari*. The Supreme Court denied the petitions on December 12, 2016. The petitions for *certiorari* delayed implementation of the settlement by more than four additional months (the Armstrong Objectors having twice sought and received extensions of time to file their petition).

participate in the MAF and BAP, expand the scope of the Death with CTE benefit, uncap the BAP Fund to ensure every eligible class member receives a baseline examination, and waive the \$1,000 appeal fee in cases of financial hardship. The class benefits enormously from these enhancements.

A. Uncapping the BAP Fund To Guarantee a Baseline Assessment for Every Eligible Class Member

The Final Settlement entitles many class members to receive a BAP baseline examination when, under the Revised Settlement, they would not have received one. This is perhaps the greatest overall achievement of the Faneca Objectors: players who might not have otherwise been able to have their health evaluated *and a course of treatment charted now* will be able to do so. The benefits to the quality of life of those players and their loved ones exceeds any monetary valuation.

Based on the calculations done in the settlement process, however, a monetary value can be assigned to this achievement. The Revised Settlement capped the total value of BAP benefits – baseline examinations plus the cost of treatment for "Level 1" neurocognitive impairment – at \$75 million. Dkt. 6087 § 23.3(d). Under the Final Settlement that resulted from the Faneca Objectors' efforts, however, every qualified class member will receive a baseline examination notwithstanding the \$75-million cap. Dkt. 6481-1 §§ 23.1(b), 23.3(d). The NFL's actuary estimated that the BAP would pay out \$27 million in supplemental benefits from the BAP Fund. Dkt. 6168 ¶54.²⁴ Separately, the total cost of baseline examinations – each worth \$3,500, Dkt. 6423-21 ¶24 – for the 16,962 living class members²⁵ eligible for one could reach \$59.4 million.²⁶

²⁴ We assume the level of supplemental benefits will remain unchanged because the Court relied upon that projection in deciding to grant preliminary approval. *See* Dkt. 6509 at 107.

²⁵ That figure is computed as follows. According to Class Counsel's actuary, 15,227 class members have not yet filed a complaint, and 4,207 class members have filed a complaint. Dkt.

The total cost of these two benefits – the baseline examinations and the BAP supplemental benefits – exceeds the Revised Settlement's \$75-million cap by \$11.4 million. The elimination of that cap thus renders a benefit of as much as \$11.4 million to the class.

B. Eligible-Season Credit for Seasons Played in NFL Europe

The Final Settlement confers greatly expanded benefits to class members who played in NFL Europe. It creates the possibility that as many as 2,300 class members who played *only* in NFL Europe can now be eligible to participate in the settlement. Before the efforts of the Faneca Objectors, those players' claims were released with minimal consideration. The Final Settlement also increases the value of monetary awards for players who played in both the NFL and NFL Europe because it credits seasons played in NFL Europe in calculating those awards.

Providing for larger awards due to increased number of seasons. Under the settlement, class members with longer careers receive higher monetary awards than those with shorter careers (all else equal). The settlement measures the longevity of a class member's career in "eligible seasons." Class members with five or more eligible seasons receive 100% of any monetary award for which they might qualify. E.g., Dkt. 6481-1 § 6.7(b)(i). That percentage decreases as a class member's number of eligible seasons decreases. Id. For example, a class member with four eligible seasons receives 80% of his maximum award, a class member with no eligible seasons receives 40% of his maximum award, and a class member with no eligible seasons receives only 2.5% of his maximum award.

6167 at 18 (Table 4-3). Of the 4,207 class members who have filed a complaint, however, 76 are deceased and would not participate in the BAP. *Id.* at 14 (Table 4-1 n.1). Another 96 have already received a qualifying diagnosis and would not participate in the BAP. *See* Dkt. 6423-21 ¶23. And 2,300 class members played only in NFL Europe. Molo Decl. Ex. 11. (The value of BAP examinations provided to players who played only in NFL Europe is addressed in Part IV.B, *infra*.) That leaves 16,962.

²⁶ That figure is calculated by multiplying the 16,962 eligible members in the class by \$3,500 (the cost of each BAP examination). *See* Dkts. 6167 at 18 (Table 4-3), 6423-21 ¶24.

The Initial and Revised Settlements awarded eligible-season credit *only* for seasons played in the NFL.²⁷ Under those earlier versions, players received *no* eligible-season credit for seasons played in NFL Europe or its predecessor leagues. The Final Settlement addresses that defect. It provides one-half of an eligible-season credit to class members who were on the active roster of an NFL Europe team for three or more regular or postseason games, or were on an active roster for one regular or postseason game and subsequently were on an injured reserve list or an inactive list for two games due to a concussion or head injury. Dkt. 6481-1 § 2.1(kk). The additional eligible-season credit that class members receive from NFL Europe is substantial.

Review of a specific player's situation is illustrative. Werner Hippler played 11 seasons in NFL Europe. Molo Decl. Ex. 11 at 34. Under the earlier settlements, he would have no eligible seasons and would have received only 2.5% of the maximum benefit, should he qualify for any monetary award. But under the Final Settlement, he has 5.5 eligible seasons – thus qualifying for the maximum benefit. In most cases, even an additional one-half of an eligible season yields a 10% increase in the value of a monetary award. Dkt. 6481-1 §6.7(b)(i). Accordingly, absent the improvements obtained by the Faneca Objectors, he would have received a maximum payment of \$47,500 upon a qualifying diagnosis of "Level 2" neurocognitive impairment at his current age of 46. However, pursuant to the Final Settlement, with the improvements urged by the Faneca Objectors, he would receive as much as \$1,900,000.

The aggregate value of the increased monetary awards attributable to eligible seasons from NFL Europe is approximately \$24 million: The Initial and Revised Settlements – which

²⁷ Specifically, a class member would have been credited with a full eligible season if he was on an NFL team's "Active List" on the date of three or more regular or postseason games. Dkt. 6087 § 2.1(kk). And the Initial and Revised Settlements awarded one-half an eligible season to class members who were on an NFL team's practice, developmental, or taxi squad for at least eight regular or postseason games. *Id.*

awarded no eligible-season credit for NFL Europe – compensated 60,350 eligible seasons.²⁸ The MAF used to compensate those 60,350 eligible seasons was valued at \$675 million. Thus, under the Initial and Revised Settlements, each compensated eligible season was worth, on average, about \$11,200. Extending eligible-season credit to seasons played in NFL Europe increased the total number of compensated eligible seasons by 2,143. Molo Decl. Ex. 11.29 Because each eligible season is worth \$11,200 on average, the total value of that benefit to the class, with the uncapped MAF, is \$24 million.

Providing "NFL Europe-only" players eligibility for baseline assessments and supplemental benefits. In addition to providing class members greater awards by increasing a player's "eligible seasons," the NFL Europe modification provides players who played only in NFL Europe with both a baseline examination and "supplemental benefits" under the BAP. Under the Initial and Revised Settlements, class members did not receive eligible-season credit for seasons played in NFL Europe. Thus, under the earlier versions of the settlement, a class member who played only in NFL Europe would have had zero eligible seasons and would not

²⁸ This number is derived from Class Counsel's actuarial data. Table 4-3 of Class Counsel's actuarial report shows how many class members played a given number of seasons. See Dkt. 6167 at 18 (Table 4-3); Molo Decl. Ex. 10. For class members who played fewer than five seasons, the aggregate number of eligible seasons that are compensated under the settlement can be calculated by multiplying the number of class members by the number of seasons. Id. For class members who played five or more seasons, the aggregate number of eligible seasons that are compensated under the settlement can be calculated by multiplying the number of class members by five eligible seasons. Because class members who play more than five seasons receive no further increase in the size of their monetary award, Dkt. 6481-1 § 6.7(b)(i), they are compensated only for five eligible seasons whether they in fact played five or ten. Using this methodology, the Initial and Revised Settlements compensated a total of 60,350 seasons. Molo Decl. Ex. 10.

²⁹ The increase of 2,143 in eligible seasons does not include any eligible seasons beyond five, the minimum number of eligible seasons needed to receive the full monetary award. For example, Mr. Hippler played 11 seasons in NFL Europe, see p. 23, supra, entitling him to 5.5 eligible seasons. But the additional one-half eligible season was not included in the 2,143-eligibleseason increase because it does not result in any increase to any monetary award Mr. Hippler might receive.

have qualified for the BAP, which requires one-half an eligible-season credit for participation, Dkt. 6481-1 § 5.1.

By revising the settlement to award one-half of an eligible season for each season of play in NFL Europe, Dkt. 6481-1 § 2.1(kk), the Final Settlement now ensures that all players who played at least one season in NFL Europe will qualify for the benefits of the BAP, see id. § 5.1. Approximately 2,300 class members played only in NFL Europe. See Molo Decl. Ex. 11 (identifying 2,302 NFL Europe players who did not play in NFL). Those players are now eligible to participate in the BAP and to receive all the benefits of that program. For example, those players may now receive a BAP baseline examination – a \$3,500 benefit according to Class Counsel. Dkt. 6423-21 ¶24. The total value of those additional baseline examinations is approximately \$8.1 million. Those 2,300 class members will also now be eligible for BAP supplemental benefits, which provide certain medical treatment to class members whose BAP examination reveals a diagnosis of "Level 1" neurocognitive impairment. According to Class Counsel, about 4.4% of class members examined in the BAP will receive such a diagnosis. Thus about 4.4% of the 2,300 - or 101 additional class members - will become eligible for BAP supplemental benefits.³⁰ Because supplemental benefits are valued at \$35,000 per player, see Dkt. 6168 ¶54; Dkt. 6509 at 107, class members who played only in NFL Europe will now

³⁰ That figure is calculated as follows. The NFL's actuary estimated that about 750 of 16,962 class members, *see* pp. 21-22 n.25, *supra*, would receive a "Level 1" neurocognitive impairment diagnosis, making them eligible for supplemental BAP benefits. Dkt. 6168 ¶53. Assuming that the prevalence of such diagnoses is the same among the 2,300 class members who played only in NFL Europe, an additional 101 class members (4.4% of 2,300) will receive a "Level 1" neurocognitive impairment diagnosis and be eligible for supplemental BAP benefits.

receive additional supplemental benefits of \$3.5 million. Thus, the total increased value based on enhanced benefits for "NFL Europe-only" class members is \$11.6 million.³¹

Accordingly, providing eligible-season credit for seasons played in NFL Europe increased the value of the settlement by \$35.6 million.³²

C. The Expanded Scope of the Death with CTE Qualifying Diagnosis

The Final Settlement also offers some relief to class members who suffered with CTE by expanding the time period for the Death with CTE qualifying diagnosis. Under the Revised Settlement, class members who died and were diagnosed with CTE post-mortem after the date of preliminary approval would have received nothing. Dkt. 6087 Ex. B-1 ¶5. The Final Settlement extends the time frame for receiving a Death with CTE qualifying diagnosis – which carries up to a \$4 million award – by over nine months, from July 7, 2014 to April 22, 2015. Dkt. 6481-1 Ex. B-1 ¶5. During that period, 111 class members passed away. According to recent Boston University research, CTE was present in the brains of 96% of deceased NFL players whose brains were examined in an autopsy. Thus, of those 111 deceased class members, 106 can be expected to have CTE and to qualify for the expanded Death with CTE payment. Molo Decl. Ex. 12. The estates of those class members will be eligible for an average award under the Death

 $^{^{31}}$ \$8.1 million for baseline examinations + \$3.5 million for supplemental benefits = \$11.6 million.

³² \$24 million based on larger awards for increased number of seasons + \$11.6 million for providing "NFL Europe-only" players eligibility for baseline assessments and supplemental benefits = \$35.6 million.

³³ Mortality data were drawn from *Oldest Living Pro Football Players, 2016-2010 Pro Football Necrology List*, http://www.oldestlivingprofootball.com/present2010necrology.htm#961267027.

³⁴ Breslow, *New: 87 Deceased NFL Players Test Positive for Brain Disease*, Frontline (Sept. 18, 2015), http://www.pbs.org/wgbh/pages/frontline/sports/concussion-watch/new-87-deceased-nfl-players-test-positive-for-brain-disease.

with CTE Qualifying Diagnosis of approximately \$421,000 accounting for age at death and their number of eligible seasons.³⁵ That is a \$44.6-million increase in the value of the settlement.³⁶

D. Elimination of the \$1,000 Appeal Fee in Cases of Financial Hardship

The Final Settlement reduces obstacles to receipt of monetary awards. To receive a monetary award, players must submit a Claim Package to the Claims Administrator, who may approve or deny the claim. Dkt. 6481-1 § 9.3. When the Claims Administrator denies a class member's claim, that class member may appeal the denial to the Court (in consultation with the Appeals Advisory Panel and/or Appeals Advisory Panel Consultant). *Id.* § 9.8. But first, the class member must pay a \$1,000 appeal fee that is only refunded if the appeal is successful. *Id.* § 9.6(a). Under the Revised Settlement, that fee was to be paid regardless of a retired player's financial circumstances. Dkt. 6087 § 9.6(a). The Final Settlement, however, allows that fee to be waived "for good cause." Dkt. 6481-1 § 9.6(a)(i). That waiver provision will significantly increase the class's recovery by allowing claims that are denied at first, but nonetheless are meritorious, to be pursued through appeal and ultimately paid.

Experience with the NFL's disability-claims process shows that about 16.2% of all the claims the NFL ultimately pays are denied in the first instance and approved only after appeal.³⁷

³⁵ An estimated CTE award was calculated for each player who died between preliminary and final approval, taking account of offsets for the player's age at death and number of Eligible Seasons. (Data regarding each player's number of eligible seasons were drawn from NFL.com.) Those estimated awards were used to calculate an average payment.

³⁶ The \$44.6-million total increase was calculated by multiplying the average estimated CTE award (\$421,000) by the estimated number of individuals who would be diagnosed with Death with CTE (106). Molo Decl. Ex. 12 at 5.

³⁷ See L. Elaine Halchin, Former NFL Players: Disabilities, Benefits, and Related Issues, Congressional Research Service (April 8, 2008), at 82, available at http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1530&context=key_workplace. From July 1, 1993 to June 26, 2007, there were 1,052 applications for disability benefits. *Id.* 358 applications were initially approved, and another 69 were initially denied but approved after appeal. *Id.* Thus of the 427 total approvals, 16.2% (69 divided by 427) were approved only after appeal.

Class Counsel's actuary calculated that 3,596 class members will be entitled to receive an award. Dkt. 6167 at 5 (Table 2-1). If the claims process here is similar to the NFL's process for disability claims, about 582 awards will be denied initially and approved only after appeal. If the \$1,000 appeal fee deterred just 10% of those appeals, about 58 class members would not receive monetary awards that they should have received under the actuary's calculation. Now, those denials will be appealed and those awards will be paid. The value of those additional awards amounts to \$10.9 million. 9

V. THE REQUESTED AWARD OF FEES AND COSTS

Like counsel for the NFL and the Class, counsel for the Faneca Objectors are highly skilled advocates and have been recognized by the profession as such. MoloLamken LLP is a leading national litigation boutique.⁴⁰ Steven Molo, the lead partner on this matter, has for the

That is a conservative estimate of the proportion of the class that is in financial distress and could not afford a \$1,000 appeal fee. For example, within two years of retirement, 78% of former NFL players are under financial stress. Pablo S. Torre, *How (and Why) Athletes Go Broke*, Sports Illustrated (Mar. 23, 2009), http://sportsillustrated.cnn.com/vault/2009/03/23/105789480/how-and-why-athletes-go-broke. In fact, 15.7% of players file for bankruptcy within twelve years of retirement. *See* Kyle Carlson et al., *Bankruptcy Rates among NFL Players with Short-Lived Income Spikes*, 105 American Economic Review 5 (April 2, 2015). And one charitable organization, the NFL Player Care Foundation, has provided charitable grants to 956 former players – about 5% of the class – just since 2007. *See* NFL Player Care Foundation, http://www.nflplayercare.com (last visited Dec. 20, 2016).

³⁹ The actuary estimates the value of 3,596 awards at \$675 million, or an average of \$187,708 for each award. The value of 58 additional awards is thus \$10.9 million.

⁴⁰ MoloLamken has been named to *The National Law Journal*'s Litigation Boutiques Hot List and *Benchmark Litigation*'s Top 10 Litigation Boutiques in America. In addition, MoloLamken and its lawyers have been recognized by *Chambers & Partners*; *SuperLawyers*; *Lawdragon*; *Best Lawyers in America*; *Euromoney*; *PLC Which Lawyer*; *Leading Lawyers*; *Washingtonian Magazine*; *New York Magazine*; *Martindale Hubbell*; *U.S. News and World Report*; *Vault.com*; and *International Global Law Experts*. *See* Molo Decl. ¶3. MoloLamken first appeared in this matter on May 15, 2014. Dkts. 6040-6043.

past eight years been recognized by *Lawdragon* as one of the 500 leading lawyers in America⁴¹ and has been named by *Benchmark Litigation* to its list of the top 100 trial lawyers in America.⁴² Hangley Aronchick Segal Pudlin & Schiller also is recognized as a leading litigation firm.⁴³ William Hangley, the lead partner on this matter, also has been named to the *Benchmark Litigation* list of top 100 trial lawyers in the United States⁴⁴ and has been listed in *Chambers* & *Partners' Guide to America's Leading Lawyers* – which calls him a "towering figure in commercial litigation" – since its inception.⁴⁵ Professor Linda Mullenix, of the University of Texas Law School, is widely regarded as the nation's leading authority on class actions.⁴⁶

Together, counsel for the Faneca Objectors expended a total of 6,357.2 hours working to enhance the settlement for the class. Their vigorous, often creative, advocacy "sharpen[ed] the issues and debate on the fairness of the settlement." *In re Domestic Air Transp. Antitrust Litig.*,

 $^{^{41}}$ Lawdragon, *Lawyer Limelight: Steven Molo*, http://www.lawdragon.com/2016/10/04/lawyer-limelight-steve-molo; *see* Molo Decl. $\P 3$.

⁴² Benchmark Litigation, *Benchmark Litigation Top 100 Trial Lawyers 2017*, https://www.benchmarklitigation.com/general/GEOFPLPE.

⁴³ Hangley Aronchick Segal Pudlin & Schiller was recently named to *The National Law Journal*'s Midsize Hot List, and it has been named by *Benchmark Litigation* as Pennsylvania Law Firm of the Year. The firm and its attorneys have been honored by *Legal Intelligencer*, *Best Lawyers in America*, *Vault.com*, *Chambers & Partners*, *U.S. News and World Report*, *SuperLawyers*, and the Philadelphia Bar Foundation. *See* Hangley Decl. ¶3. The firm first appeared in this matter on May 19, 2014. Dkt. 6045.

⁴⁴ Benchmark Litigation, *Benchmark Litigation Top 100 Trial Lawyers 2017*, https://www.benchmarklitigation.com/general/GEOFPLPE.

⁴⁵ Chambers & Partners, *USA Guide* (profile of William T. Hangley), http://www.chambers andpartners.com/USA/person/179385/william-t-hangley; *see* Hangley Decl. ¶4.

⁴⁶ Professor Mullenix is the Morris & Rita Atlas Chair in Advocacy at the University of Texas School of Law. She has authored or co-authored twenty-two books and has published hundreds of articles in leading law reviews. Her work on civil procedure and complex litigation has been cited by courts throughout the United States. *See* Mullenix Decl. ¶¶2-4. She appeared in this matter on May 15, 2014. Dkt. 6044.

148 F.R.D. 297, 358 (N.D. Ga. 1993) (awarding objector fees). Moreover, it brought about a tangible financial benefit to the class, fairly valued in excess of \$100 million.

The fee requested by the Faneca Objectors will in no way diminish the financial benefits to class members. The Final Settlement provides that, separate and apart from any financial payments to the class, the NFL will pay reasonable attorneys' fees and costs subject to the approval of this Court. Dkt. 6481-1 §21.1. The NFL is to pay \$112.5 million into the Attorneys' Fees Qualified Settlement Fund and has agreed not to oppose any request for fees not exceeding that amount. *Id.* §21.2.⁴⁷

Class Counsel unquestionably is entitled to a substantial award for the significant work done in: developing a theory of the case; organizing and communicating with the class – which included many members represented by separate counsel – throughout the proceedings; preparing master administrative long-form complaints, a short-form complaint system, and a class action complaint; briefing and arguing the limited motion to dismiss; negotiating the complex settlement; and defending the settlement against the formidable opposition of the Faneca Objectors in the post-settlement proceedings. Again, though, this was not a litigated case, except for the litigation pitting the settling parties against the Faneca Objectors. Awarding the full \$112.5 million to Class Counsel without compensating counsel for the Faneca Objectors – given how this matter played out – would be an inequitable result.

⁴⁷ The size of the \$112.5 million attorneys' fee award that the NFL has agreed not to oppose was established by the Initial and Revised Settlement agreements when the settlement was valued at \$760 million. *E.g.*, Dkt. 5634-2 §§ 21.1-21.2. The increased value of the Final Settlement, which now exceeds \$860 million, thus could justify an attorneys' fee fund that exceeds the \$112.5-million fund established based on the lower economic values of the Initial Settlement and the Revised Settlement, which had been pegged at \$760 million. Co-Lead Class Counsel are not precluded from requesting a fee larger than \$112.5 million, although the NFL has reserved the right to object to any such fee request. Dkt. 6481-1 § 21.1.

Based on their substantial contributions, the Faneca Objectors request an attorneys' fee award of \$20 million. This represents approximately 2.3% of the overall \$862.5-million financial value of the settlement (assuming the fair value of the Revised Settlement at \$760 million prior to the \$102.5-million increase brought about by the Faneca Objectors). It also represents approximately 19.5% of that \$102.5-million increase in financial value. Finally, it represents approximately 17.8% of the total \$112.5 million to be paid into the Attorneys' Fees Qualified Settlement Fund. In addition to the \$20 million in attorneys' fees, the Faneca Objectors request an award of \$51,827.52 in reasonable associated costs.

Should the Court grant this request for fees and costs, Class Counsel may still receive in excess of \$92 million from the Attorneys' Fees Qualified Settlement Fund – in a case in which no discovery, contested class certification hearing, summary judgment practice, or trial occurred. It should also be noted that many of the attorneys serving on the Plaintiffs' Steering Committee and leading the efforts of the class will also be compensated through individual representation agreements with players. If so, they will receive a percentage of any payment made to a player they represent *in addition to* any payment from the Attorneys' Fees Qualified Settlement Fund. Those agreements may call for the attorney to receive as much as 45% of the award going to the player. *See, e.g.*, Dkt. 7029 ¶6 (counsel for the estate of Kevin Turner arranged to receive up to 45% of recovery). Counsel for the Faneca Objectors have no such individual representation agreements with any class members.

⁴⁸ In addition to any fee paid from the Attorneys' Fees Qualified Settlement Fund, the Final Settlement's provisions regarding attorneys' fees authorize Co-Lead Class Counsel to petition the Court for up to a 5% set-aside – drawn from the monetary awards paid to class members – to "facilitate the Settlement program and related efforts of Class Counsel." Dkt. 6481-1 §21.1.

⁴⁹ This may result in a considerable payment to some lawyers. For example, Thomas V. Girardi, who sits on the Plaintiffs' Executive Committee, *see* Dkt. 64, represents 561 players. And Steven C. Marks, who also sits on the Plaintiffs' Executive Committee and who served as Class

VI. ARGUMENT

A. The Work of Counsel for the Faneca Objectors Merits the Requested Fee Award

Objectors who confer a material benefit on the class are entitled to a fee award. *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 744 (3d Cir. 2001); *see also In re Trans Union Corp. Privacy Litig.*, 629 F.3d 741, 748 (7th Cir. 2011); 7B Charles A. Wright & Arthur Miller, *Federal Practice & Procedure* § 1803 n.6 (3d ed. 2004) (collecting cases awarding objector fees). Objectors "serve as a highly useful vehicle for class members, for the court and for the public generally" to bring adversarial scrutiny to proposed class action settlements. *Great Neck Capital Appreciation Inv. P'ship, LP v. PricewaterhouseCoopers, LLP*, 212 F.R.D. 400, 412 (E.D. Wis. 2002). "Therefore, a lawyer for an objector who raises pertinent questions about the terms or effects, intended or unintended, of a proposed settlement renders an important service." *Id.* at 413.

Objectors play a valuable role given the awkward dynamic inherent to class action settlements: The defendant is motivated to settle as cheaply as possible and, as a practical matter, does not care whether its payment benefits primarily the class or class counsel so long as it gets a release; class counsel may have an opportunity to maximize fees at the expense of maximum relief to the class; and the court, of course, must scrutinize the proposed settlement acting in its role as a fiduciary to the class. *See In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 784 (3d Cir. 1995) ("*GM Trucks*"). The more significant the issue litigated in the case and the larger the potential fee award, the greater the problem posed by this dynamic.

Counsel, represents 535 players. *Id.*; Dkt. 6423 at 3. Should the Court deem the details of these arrangements relevant and useful, the Faneca Objectors are prepared to pursue any appropriate discovery on this issue.

This necessarily imposes an extraordinary burden on the court. As Judge Posner explained, "American judges are accustomed to presiding over adversary proceedings. They expect the clash of the adversaries to generate the information that the judge needs to decide the case." *Eubank v. Pella Corp.*, 753 F.3d 718, 720 (7th Cir. 2014) (reversing approval of class action settlement based on objectors' arguments). Thus, vigorous, articulate objections by competent counsel acting for individual class members allow a judge to overcome a "disadvantage in evaluating the fairness of the settlement to the class." *Id*.

Counsel for the Faneca Objectors performed that valuable service to the Court and to the class in this matter. The Revised Settlement was moving forward with the force of a steamroller fueled by an incredibly powerful, media-savvy defendant, two sets of highly skilled advocates, and a laudable intent in aiding a *subset* of the class in need of immediate relief. The Faneca Objectors stood before that steamroller with counsel who could match the lawyers of the settling parties blow for blow. They did so, serving the *entire* class in two ways – *first*, by turning the fairness hearing into a true adversarial process; and *second*, by achieving a substantial financial benefit through an enhanced Final Settlement.

1. The Direct Benefit from the Faneca Objectors' Challenge to the Settlement Supports the Requested Fee

"If objectors' appearance sharpens the issues and debate on the fairness of the settlement, their performance of the role of devil's advocate warrants a fee award." *In re Domestic Air Transp. Antitrust Litig.*, 148 F.R.D. 297, 358 (N.D. Ga. 1993) (awarding objector fees); *see In re Ikon Office Sols., Inc., Sec. Litig.*, 194 F.R.D. 166, 197 (E.D. Pa. 2000) (awarding objector fees for "sharpen[ing] debate" in proceeding). Courts recognize that even where their efforts do not directly increase the size of the settlement fund, "objectors add value to the class-action settlement process" by "transforming the fairness hearing into a truly adversarial proceeding"

and "supplying the Court with both precedent and argument to gauge the reasonableness of the settlement." *In re Cardinal Health, Inc. Sec. Litig.*, 550 F. Supp. 2d 751, 753 (S.D. Ohio 2008). Thus even objections that are "ultimately overruled" may merit a fee award if "the presence of an objector represented by competent counsel transformed the settlement into a truly adversary proceeding." *Frankenstein v. McCrory Corp.*, 425 F. Supp. 762, 767 (S.D.N.Y. 1977) (awarding objector fees).

In *Frankenstein*, for example, objectors challenged the fairness of a settlement resolving claims of Securities Act violations in connection with the sale of certain debentures. 425 F. Supp. at 763. The largest class benefit provided under the proposed settlement resulted from the defendant's agreement to repurchase the debentures from class members who still held them. *Id.* at 764. Objectors challenged that provision as unfair, because it discriminated among class members, providing a larger benefit to class members who held the debentures longer. *Id.* The district court granted final approval; the objectors took an appeal, but withdrew it. *Id.* The district court nonetheless granted objectors' fee petition. *Id.* at 767.

The court noted that the objectors had "produced a beneficial effect upon the progress of the litigation" by advancing arguments that, "although ultimately overruled, were not frivolous" and "transformed the settlement hearing into a truly adversary proceeding." *Id.* The court found the objection added value by causing the court "to spend even more hours in analyzing and assessing the complex settlement agreement, and cast[ing] in sharp focus the question of fairness and adequacy of the settlement to all members of the class." *Id.*

Likewise, in *Howes v. Atkins*, objectors challenged a settlement where the parties settled for an amount that was low relative to the optimistic initial views of plaintiffs' counsel. 668 F. Supp. 1021, 1027 (E.D. Ky. 1987). Objectors to the settlement "made a vigorous attack on the

settlement and pursued extensive discovery," but were unable to find "any reason for the modest settlement except that the evidence had not developed as plaintiffs' counsel had first anticipated." *Id.* The district court awarded objectors' counsel 10% of the settlement fund, holding that "even though the settlement was not improved," objectors' counsel were entitled to fees for "ably perform[ing] the role of devil's advocate" and "ma[king] the court much more comfortable in approving the settlement." *Id.*

Similarly, here, the advocacy of counsel for the Faneca Objectors fleshed out complex issues important to a determination of the fairness of the settlement. The Faneca Objectors took the lead in addressing the key fairness question in this case: whether the settlement's compromise regarding CTE – giving direct monetary compensation for the disease only to those class members who died by a certain date – was "fair, reasonable, and adequate" under Rule 23(e) and met Rule 23(a)'s requirement of adequate representation. The CTE question was highly complex and hotly contested – particularly given the prominence class counsel gave CTE in their early pleadings and statements about the case. To have approved the settlement without a full airing of the CTE issue would have been a grave injustice.

The Faneca Objectors also raised other potential intra-class conflicts that were problematic under Rule 23(a) – exclusion of credit for NFL Europe and the 75% reductions. Recognizing how fundamental these issues were to deciding whether to approve the settlement, the Faneca Objectors sought interlocutory review of the preliminary approval order – which led the Third Circuit to resolve a legal question of first impression. *See* pp. 10-11, *supra*.

The Faneca Objectors addressed these essential questions through extensive briefing, *see* pp. 11-17, *supra*, and a detailed presentation to this Court at the fairness hearing, *see* pp. 14-15, *supra*, as well as through briefing and argument to the Court of Appeals, *see* pp. 19-20, *supra*.

The Faneca Objectors also built a substantial record – a particularly important service here, as the settlement was reached without formal discovery. They worked with eleven experts to submit a total of thirteen expert declarations. *See* pp. 12-13, 15-16, *supra*. And they filed several motions requesting discovery – seeking information about the negotiation of the settlement, the strength of the NFL's defenses, the parties' evidence supporting the settlement, and the compensation of the NFL's and Class Counsel's experts. *See*, *e.g.*, Dkts. 6461, 6462; pp. 11, 13, *supra*. Finally, the Faneca Objectors performed an additional service by organizing the presentations of the other objectors at the fairness hearing. *See* pp. 14-15, *supra*.

2. The Direct Benefit of the \$102.5-Million Increase in Settlement Value Supports the Requested Fee

Because "objectors have a valuable and important role to perform in preventing ... unfavorable settlements, ... they are entitled to an allowance as compensation for attorneys' fees and expenses where ... the settlement was improved as a result of their efforts." In re Cendant Corp. PRIDES Litig., 243 F.3d at 743 (quoting White, 500 F.2d at 828) (emphasis added) (vacating and remanding order denying objector fee request). Here, there is no doubt that the "settlement was improved." As the Third Circuit recognized, the Final Settlement's changes from the Revised Settlement "benefit[ed] class members." In re Nat'l Football League Players Concussion Injury Litig., 821 F.3d at 423. Indeed, the changes relating to NFL Europe, CTE, the BAP, and the appeal fee added \$102.5 million to the settlement's value. See pp. 20-28, supra.

It is likewise clear that those improvements were the "result of [the] efforts" of the Faneca Objectors. Counsel for the Faneca Objectors were, as the *Washington Post* recognized, "lead counsel for those objecting to the settlement."⁵⁰ Even after the Faneca Objectors' motion

⁵⁰ Rick Maese, *Judge Orders Further Revisions in NFL Concussion Lawsuit Settlement*, The Wash. Post (Feb. 2, 2015), https://www.washingtonpost.com/sports/redskins/judge-orders-

to intervene – filed long before any other objector appeared on the scene – was denied, they litigated the case as if they were a party and put forth significant evidence and argument. Instead of simply pointing to the settlement's flaws, they offered concrete ways to improve it. In fact, the improvements in the Final Settlement that have the greatest value to class members had their roots in the Faneca Objectors' suggestions.

For example, the BAP Fund was uncapped in response to the Faneca Objectors' arguments. They were the first to address the problem with the BAP Fund cap. *See* p. 12, *supra*. And at the fairness hearing, they pointed out that if "all the [eligible] players will participate" in the capped BAP, the \$75-million fund "will . . . fall woefully short." Dkt. 6463 at 109:7-10. They also offered a concrete solution. They recommended that the parties "[I]ift the cap on the BAP." Dkt. 6469 at 33. And in post-hearing briefing, they recommended a "revised, uncapped, baseline assessment program." Dkt. 6420 at 10. Though the Final Settlement did not completely adopt that recommendation, it met the Faneca Objectors halfway by uncapping the BAP Fund as to baseline examinations. *See* pp. 17-18, *supra*. The \$11.4-million class benefit that will result is attributable to the Faneca Objectors. *See* pp. 21-22, *supra*.

The Final Settlement offers credit for NFL Europe play because the Faneca Objectors pointed out that excluding those players would raise serious Rule 23(a) concerns.⁵¹ The Faneca Objectors raised that issue in their opposition to the settling parties' motion for preliminary approval – something no other objector filed. Dkt. 6082 at 28-29. They also debunked the settling parties' *post hoc* rationales for excluding NFL Europe, for example by highlighting statements where Class Counsel admitted to bargaining away recovery for NFL Europe players

 $further-revisions-in-nfl-concussion-lawsuit-settlement/2015/02/02/3b44b18e-ab22-11e4-8876-460b1144cbc1_story.html.$

⁵¹ Sean Morey, until opting out following final approval, had been one of the MoloLamken clients. Unlike either of the class representatives, Mr. Morey actually played in NFL Europe.

in favor of other class members. Dkt. 6201 at 35. The \$35.6-million class benefit resulting from better treatment of NFL Europe players in the Final Settlement is attributable to the efforts of counsel for the Faneca Objectors. *See* pp. 22-26, *supra*.

The Final Settlement's extension of the deadline for filing Death with CTE claims to the date of final approval is likewise traceable to the Faneca Objectors' efforts. Their motion to intervene brought CTE to the forefront. Dkt. 6019-1 at 15-18. They not only devoted extensive briefing to the issue, *see* pp. 8-12, 15-17, *supra*, they were the only objectors to build an independent scientific record to justify more compensation for CTE. *See* pp. 12-13, 15-16, *supra*. The Faneca Objectors highlighted the arbitrariness of the Revised Settlement's preliminary-approval deadline for Death with CTE claims. At the fairness hearing, they pointed out that if a player died and received a diagnosis of CTE the *day before* preliminary approval, his estate would receive up to \$4 million, whereas if that player died the *day after* preliminary approval, his estate would receive nothing. Dkt. 6463 at 83:8-84:6; Dkt. 6469 at 17. The Final Settlement addressed that unfairness – at least in part. Though the Faneca Objectors sought to have the deadline for CTE claims extended further, the date of final approval was at least a rational place to draw the line. The \$44.6-million benefit to the class resulting from that change is attributable to the Faneca Objectors. *See* pp. 26-27, *supra*.

Finally, the hardship provision for the appeal fee is attributable to the Faneca Objectors. They noted the problems with the appeals process – which requires players, but not the NFL, to pay to appeal – in their opposition to preliminary approval. Dkt. 6082 at 33-34. They pointed to the fact that 78% of former NFL players face financial distress within two years of retiring from the NFL as reason to believe that the "appeal fee will discourage many retired players from challenging adverse claim determinations." *Id.* at 33 n.43. The \$10.9-million benefit to the class

resulting from making the appeal process fairer is the result of their efforts. *See* pp. 27-28, *supra*.

3. The Amount of the Fee Request Is Reasonable

The \$20-million fee award sought by the Faneca Objectors represents 19.5% of the \$102.5-million financial benefit conferred – a reasonable percentage under this Circuit's precedent. Application of this Circuit's *Gunter/Prudential* factors further confirms that the requested percentage is a reasonable one. Finally, the lodestar cross-check shows that the requested fee is a reasonable multiple of counsel's investment in this case.

i. The Fee Request Is a Reasonable Percentage of the Benefit Conferred

When the efforts of counsel result in a large recovery for the class, under common-fund principles an award of a percentage of the benefit conferred is appropriate. *See McDonough v. Toys "R" Us, Inc.*, 80 F. Supp. 3d 626, 662 (E.D. Pa. 2015). That "percentage-of-recovery method is designed to reward attorneys for" "adding value to the class settlement." *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 273 F. Supp. 2d 563, 566 (D.N.J. 2003). The \$20-million award sought by the Faneca Objectors represents 2.3% of the total \$862.5-million financial benefit the class will receive through the vigorously litigated settlement. The settlement had been valued at \$760 million prior to the improvements resulting from the Faneca Objectors' work, so that increase in the financial value of the settlement brought about by the Faneca Objectors is \$102.5 million, or 13.5% more than the Revised Settlement. The requested award is just 19.5% of that increase in value. Courts in this Circuit have approved similar awards (as a percentage of the improvement achieved by objectors) in other cases. For example, in *Dewey v. Volkswagen of America*, the court awarded objectors' counsel "13.4% of the benefit

⁵² Of course, this is only the financial benefit. It does not account for the benefit of the adversarial challenge to the overall fairness of the complex settlement.

conferred," explaining that was "within the range of acceptable percentages-of-recovery." 909 F. Supp. 2d at 397; *see also Lan v. Ludrof*, No. 1:06-cv-114, 2008 WL 763763, at *30 (W.D. Pa. 2008) (awarding objector 25% of increase in settlement value).

ii. The Gunter/Prudential Factors Support the Requested Fee

The reasonableness of the fee request is further confirmed by application of the Gunter/Prudential factors: (1) "the size of the fund created and the number of beneficiaries," (2) "the presence or absence of substantial objections by members of the class to the settlement terms and/or fees requested by counsel," (3) "the skill and efficiency of the attorneys involved," (4) "the complexity and duration of the litigation," (5) "the risk of nonpayment," (6) "the amount of time devoted to the case by plaintiffs' counsel," (7) "the awards in similar cases," (8) "the value of benefits attributable to the efforts of class counsel relative to the efforts of other groups. such as government agencies conducting investigations," (9) "the percentage fee that would have been negotiated had the case been subject to a private contingent fee arrangement at the time counsel was retained," and (10) "any innovative terms of settlement." In re Diet Drugs Prods. Liab, Litig., 582 F.3d 524, 541 (3d Cir. 2009); In re Prudential Ins. Co. Am. Sales Practices Litig. Agent Actions, 148 F.3d 283, 336 (3d Cir. 1998). These factors are used to evaluate the fee requests of both plaintiffs' counsel and objectors' counsel. See McDonough, 80 F. Supp. 3d at 660 (applying Gunter/Prudential factors to evaluate objector's fee request). Those factors that apply all weigh in favor of the requested fee award.⁵³

The size of the fund created by the efforts of counsel for the Faneca Objectors favors the requested fee. The \$102.5-million increase here would be a large recovery in its own

⁵³ The factor pertaining to the number of objections is inapplicable here. In the context of an objector's fee petition, courts have construed that factor as referring to the number of objections to the fee petition filed by objector's counsel, which is unknown at this time. *See McDonough*, 80 F. Supp. 3d at 660.

right in another case. Indeed, that increase dwarfs the *entire* \$35.5 million settlement in *McDonough*, 80 F. Supp. 3d at 651, and is commensurate with large settlement funds in other cases. *See, e.g., In re Trans Union*, 629 F.3d 741 (\$110 million settlement); *Sioux Nation of Indians v. United States*, 650 F.2d 244, 249 (Ct. Cl. 1981) (describing \$102-million fund as "extraordinary"). Moreover, courts routinely award class counsel large percentages as attorneys' fees in cases involving settlements in the neighborhood of \$100 million. *See, e.g., In re Ikon Office Sols., Inc.*, 194 F.R.D. at 196-97 (awarding 30% fee in case involving \$111-million settlement). The magnitude of the additional value conferred by the Faneca Objectors' efforts – more than a 13.5% increase over the \$760-million valuation of the Revised Settlement – weighs in favor of the requested fee award.

The number of beneficiaries favors the requested fee. The Faneca Objectors' efforts benefited the whole class. Any class member can receive benefits from the uncapped BAP Fund that he might not have received had the Revised Settlement's capped BAP Fund run out. Any class member can qualify for waiver of the appeal fee if he falls into financial hardship. And the estate of any class member who died between the dates of preliminary approval and final approval can benefit from the extension of the deadline for Death with CTE claims. Moreover, as a result of the improvements urged by the Faneca Objectors, thousands of class members who played in NFL Europe will receive even greater benefits. They will receive larger awards due to credit for NFL Europe seasons, and the more than 2,300 players who played solely in NFL Europe (over 10% of the class) will be eligible for monetary awards and participation in the BAP that they were not eligible to receive before. *See* pp. 20-28, *supra*. Most importantly, because the settlement fund is uncapped, these increased benefits do not reduce the recovery of other

class members – the additional funds will be paid by the NFL. The number of class members benefiting from the Faneca Objectors' efforts supports the requested fee.

The value of benefits attributable to the efforts of counsel for the Faneca Objectors relative to the efforts of other groups favors the requested fee. The Faneca Objectors were the moving force in improving a settlement that was, according to Class Counsel, itself "the product of many months of hard-fought, arm's-length and vigorous negotiations by highly experienced counsel" supervised by one of the nation's most respected mediators. Dkt. 6423-1 at 2. Nonetheless, this Court denied preliminary approval of the Initial Settlement. *Id.* at 99. The parties went back to the negotiating table for *five more months* before reaching the compromise that was the Revised Settlement. *Id.* at 99-100. The Revised Settlement was the best deal Class Counsel, through all their able efforts, were able to extract from the NFL. The irresistible force had met the immovable object. But as a result of the intense pressure created by the Faneca Objectors – and this Court's scrupulous efforts to "play[] the important role of protector of the absentees' interests, in a sort of fiduciary capacity," *GM Trucks*, 55 F.3d at 785 – the NFL yielded further. 54

The Faneca Objectors were the first to raise the key issues underlying the Final Settlement's improvements – credit for NFL Europe play, CTE, the capped BAP Fund, and the appeal fee, *see*, *e.g.*, Dkt. 6019-1 at 14-21; Dkt. 6082 at 19-28, 32-35. Other objectors repeated the arguments advanced by the Faneca Objectors or adopted their arguments wholesale. *See*, *e.g.*, Dkt. 6242 at 7-15 & n.4. The Faneca Objectors built the extensive evidentiary record in

This case is thus distinguishable from ones where objectors "did not increase the amount of the settlement," but only "spur[red] a change in allocation of the settlement." *McDonough*, 80 F. Supp. 3d at 661. In those cases, it might be appropriate to split credit for the increased benefit to the class between Class Counsel and objector's counsel. Here, it was the Faneca Objectors who were solely responsible for the increased settlement value.

support of objectors' arguments, submitting hundreds of pages of scientific articles and declarations from preeminent scientists and doctors. *See, e.g.*, Dkt. 6201-1 & Exs. 1-82; Dkt. 6201-16; Dkt. 6232-1; Dkt. 6455-1 to -11; Dkt. 6455-12 & Exs. 1-27. No other objector offered similar evidence to assist the Court. Moreover, the Faneca Objectors pushed the proceedings at every turn in an effort to bring prompt relief to the class.

It should be noted that the Faneca Objectors did *not* raise the issue of class members who lacked necessary medical records due to *force majeure* events, which was raised by objector Delano R. Williams, Dkt. 6221, represented by the Shah Law Firm, and addressed in the Final Settlement.

The complexity and duration of the litigation favors the requested fee. As this Court noted in approving the settlement, this "case implicates complex scientific and medical issues not yet comprehensively studied." Dkt. 6509 at 60. The Faneca Objectors engaged directly with the NFL and Class Counsel in litigating those issues. Litigation involving such scientifically complex issues supports an attorneys' fees award. *See, e.g., In re Schering-Plough Corp. Enhance Sec. Litig.*, Nos. 08-cv-397, 08-cv-2177, 2013 WL 5505744, at *13-16, *27 (D.N.J. Oct. 1, 2013) (complexity of case supported fee award because it involved "complex scientific and statistical data"); *In re Diet Drugs*, No. Civ. A. 99-20593, 2003 WL 21641958, at *9 (E.D. Pa. May 15, 2003) (noting "complex work" involving "scientific evidence" in support of fee award); *see also Gates v. Rohm & Haas Co.*, No. 06-cv-1743, 2008 WL 4078456, at *4 (E.D. Pa. Aug. 22, 2008) (noting complexity of case "requiring extensive scientific, technical and modeling evidentiary submissions" supported approval of settlement).

The case also involved complex legal issues, in particular adequacy of representation under Rule 23(a) in connection with the settlement's treatment of CTE, the 75% reductions, and

NFL Europe play. *See* Dkt. 6201 at 20-38. Even beyond litigating those legally complex questions, the Faneca Objectors employed novel and thoughtful strategies in an attempt to address the settlement's deficiencies early on so that a fair settlement could be reached quickly and class members could receive the help they need. For example, the Faneca Objectors moved to intervene when it became apparent that intra-class conflicts could result in core class constituencies, like individuals with CTE, receiving less than their fair due under the settlement. *See* Dkt. 6019-1. And they pushed hard for early appellate review of those issues, pressing the Third Circuit to review the preliminary approval order under Rule 23(f), *see* CA3 Case No. 14-8103 – a novel use of the rule that provoked consideration of rules amendments from the Rules Advisory Committee. *See* Memo. from Hon. John D. Bates to Hon. Jeffrey S. Sutton (May 12, 2016).

The amount of time devoted to the case, and the skill and efficiency of the attorneys involved, favors the requested fee. The Faneca Objectors' counsel invested more than three years and over 6,300 billable hours on this litigation. At their current hourly billing rates, their investment exceeds \$4 million. All of that effort – from the motion to intervene to the Third Circuit appeal – was expended trying to improve the settlement. *See* pp. 8-20, *supra*.

Notwithstanding their enormous investment in the case, the Faneca Objectors' counsel acted with skill and efficiency. The results speak for themselves. The Faneca Objectors secured benefits for the class exceeding \$100 million in value – while litigating against some of the best lawyers in the country. That is no small feat. The outcome confirms the professional recognition that counsel for the Faneca Objectors have received for their work apart from their efforts in this case. *See* Molo Decl. ¶¶3-6; Hangley Decl. ¶¶3-5.

The risk of non-payment favors the requested fee. The extensive investment of time in this case by the Faneca Objectors' counsel is particularly significant given that counsel accepted the case on a 100% contingency fee basis. The risk of non-payment was high. Many objectors receive no fee for their efforts, and here the settlement being challenged had been negotiated by some of the best lawyers in the country with the assistance of a highly regarded mediator and special master. Had the Faneca Objectors "been unsuccessful" in their quest to improve the settlement, then counsel might not have received any compensation. See McDonough, 80 F. Supp. 3d at 26. "This factor counsels in favor of granting a fee award." Id.

The awards in similar cases favor the requested fee. Although this Court has recognized that fee awards for objectors are infrequent, *McDonough*, 80 F. Supp. 3d at 661, courts have awarded objectors' counsel fees equal to 13-25% of the increase in settlement value when objectors successfully obtained a large benefit for the class. *See, e.g., Dewey*, 909 F. Supp. 2d at 397 (awarding 13.4% of increase in settlement value); *Lan*, 2008 WL 763763, at *28 (awarding 25% of increase in settlement value). That said, the weighting of this factor should account for the fact that this case is unique in the sheer magnitude of the benefit conferred and the degree to which the Faneca Objectors were engaged and instrumental in improving as well as testing the fairness of the settlement.

The percentage fee that would have been negotiated in a private contingent fee arrangement weighs in favor of the requested fee. The fee requested by the Faneca Objectors represents 19.5% of the increase in the value of the benefits to the class which resulted from their work. That is far less than the contingency fees of 30-40% of total recovery that are "routinely negotiate[d]" in tort cases like this one. *In re Avandia Mktg., Sales Practices & Prods. Liab. Litig.*, No. 07-MD-01871, 2012 WL 6923367, at *8 (E.D. Pa. Oct. 19, 2012) (quoting *In re Ikon*

Office Sols., Inc., Sec. Litig., 194 F.R.D. at 194); see Kirchoff v. Flynn, 786 F.2d 320, 323 (7th Cir. 1986) ("40% is the customary fee in tort litigation"); In re Shell Oil Refinery, 155 F.R.D. 552, 571 (E.D. La. 1993) ("customary contingency fee" in personal injury case "is between 331/3% and 40%"). Moreover, that percentage fee is also significantly lower than what the Faneca Objectors' counsel would have negotiated as a private fee arrangement for a 100% contingency matter. See Molo Decl. ¶46. And that percentage is much less than what some counsel representing individual players in this action have negotiated in private arrangements with those players. See pp. 31-32, supra. For example, counsel for the estate of Kevin Turner have arranged for a contingency fee of up to 45%, see Dkt. 7029 ¶6, more than double the percentage sought by the Faneca Objectors.

Finally, the innovative terms of the settlement improvements favor the requested fee. The improvements in the Final Settlement are innovative. They focus not on adding a fixed amount of money to the settlement fund, but rather on ensuring that all class members receive a fair recovery for their injuries. For example, uncapping the BAP Fund – which the Faneca Objectors urged the parties to do – ensures that all class members receive the benefits of a baseline examination, and requires the NFL to pay whatever additional amounts are necessary to make that happen. *See* pp. 21-22, *supra*. Moreover, allowing for this complete access to examinations through the BAP benefits players and their loved ones because they will be able to receive an early diagnosis and assessment and put a plan of treatment in place to effectively address the issues caused by their injuries at the earliest possible date. And providing credit for NFL Europe seasons – which the Faneca Objectors likewise urged – allows thousands of class members to receive a fair monetary award, without limiting the total benefit to a specific dollar

value. The innovative character of the improvements suggested by the Faneca Objectors that were incorporated into the Final Settlement supports the requested fee.

* * *

Where the *Gunter/Prudential* factors weigh heavily in favor of a fee award – as they do here – courts in this circuit regularly find fee awards of 15-33% of the amount of the total class benefit to be reasonable. *See In re Ins. Brokerage Antitrust Litig.*, 297 F.R.D. 136, 155 (D.N.J. 2013) (collecting cases); *In re Linerboard Antitrust Litig.*, No. 98-5055, 2004 WL 1221350, at *14 (E.D. Pa. June 2, 2004) (noting Federal Judicial Center study finding median fee award to be 27-30% and approving 30% fee award after applying *Gunter* factors). An award of 19.5% of the benefit conferred is thus on the lower end of that range. However, given the large value of the increased benefit, that percentage is reasonable. ⁵⁵

iii. The Requested Fee Is a Reasonable Multiple of Counsel's Investment

A "lodestar cross-check" confirms the reasonableness of the requested award. Courts in this Circuit compare a fee award to counsel's lodestar (*i.e.* the reasonable value of counsel's invested time) to verify that a fee award is justified by the effort expended by counsel. *See In re Cendant Corp. PRIDES Litig.*, 264 F.3d 201, 285 (3d Cir. 2001); *In re Diet Drugs*, 582 F.3d at 540. The lodestar multiplier – the awarded fee divided by the lodestar – "need not fall within any pre-defined range, provided that the District Court's analysis justifies the award." *In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 307 (3d Cir. 2005).

The Faneca Objectors seek an award of \$20 million. As shown in the summary attached as an exhibit to this memorandum, MoloLamken's lodestar is \$4,312,565 at current market

⁵⁵ When the common fund is very large, it may be appropriate to award fees that are a smaller percentage of the total fund amount. *See In re Prudential Ins. Co. Am. Sales Practices Litig. Agent Actions*, 148 F.3d at 339.

hourly billing rates that other clients have agreed to pay. *See* Molo Decl. $\P\P45-50$ & Exs. 5, 6, 8 and 9.⁵⁶ Thus, the lodestar cross-check here yields a multiplier of 4.6.⁵⁷

This further confirms the reasonableness of the fee request. Lodestar multipliers exceeding 5 have been recognized as reasonable in appropriate cases. *See In re Rite Aid Corp. Sec. Litig.*, 362 F. Supp. 2d 587, 589 (E.D. Pa. 2005) (awarding fee of 6.96 times the lodestar); *Roberts v. Texaco, Inc.*, 979 F. Supp. 185, 197-98 (S.D.N.Y. 1997) (awarding fee of 5.5 times the lodestar); *see also Stop & Shop Supermarket Co. v. SmithKline Beecham Corp.*, No. 03-4578, 2005 WL 1213926, at *16 (E.D. Pa. May 19, 2005) (citing Class Action Reporter survey that "found that the *average* lodestar multiplier was 4.5 for percentage of recovery fee awards in cases with common funds of \$100 million or more" (emphasis added)); *Maley v. Del Global Techs. Corp.*, 186 F. Supp. 2d 358, 371 (S.D.N.Y. 2002) (finding 4.65 to be a "modest multiplier" and citing cases awarding multiples up to 7.7).

B. The Requested Fees Should Be Paid from the Attorneys' Fees Qualified Settlement Fund

The fees requested by the Faneca Objectors should be drawn from the \$112.5 million the NFL is required to contribute to the Attorneys' Fees Qualified Settlement Fund, or, alternatively, paid by the NFL and/or Class Counsel. It is well within this Court's discretion to require objectors' fees to be paid from Class Counsel's award or by the defendant to "avoid dilution of the settlement fund." *In re Ikon Office Sols., Inc., Secs. Litig.*, 194 F.R.D. at 197 (ordering objectors' fees and costs to be paid from class counsel's award); *see Great Neck Capital Appreciation Inv. P'ship, L.P.*, 212 F.R.D. at 417 (requiring objectors' fees to "be paid by class

⁵⁶ The lodestar is computed at the current hourly rates of the Faneca Objectors' counsel, as is common practice in this Circuit. *See In re Safety Components, Inc. Sec. Litig.*, 166 F. Supp. 2d 72, 103 (D.N.J. 2001) ("calculating the lodestar of Plaintiffs' Counsel using current hourly rates is appropriate").

⁵⁷ \$20,000,000 ÷ \$4,312,565 = 4.6.

counsel and the defendants as they may agree but without diminution of the sum awarded to the class").

VII. <u>CONCLUSION</u>

The petition for attorneys' fees and reimbursement of expenses should be granted.

Dated: January 11, 2017

William T. Hangley
Michele D. Hangley
HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER
One Logan Square
18th & Cherry Streets
27th Floor
Philadelphia, PA 19103
(215) 496-7001 (telephone)
(215) 568-0300 (facsimile)
whangley@hangley.com
mdh@hangley.com

Linda S. Mullenix 2305 Barton Creek Blvd. Unit 2 Austin, TX 78735 (512) 263-9330 (telephone) lmullenix@hotmail.com Respectfully submitted,

/s/ Steven F. Molo

Steven F. Molo Thomas J. Wiegand MOLOLAMKEN LLP 430 Park Ave. New York, NY 10022 (212) 607-8160 (telephone) (212) 607-8161 (facsimile) smolo@mololamken.com twiegand@mololamken.com

Eric R. Nitz MOLOLAMKEN LLP 600 New Hampshire Ave., N.W. Washington, DC 20037 (202) 556-2000 (telephone) (202) 556-2001 (facsimile) enitz@mololamken.com

Attorneys for Objectors Alan Faneca, Roderick "Rock" Cartwright, Jeff Rohrer, and Sean Considine

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

V.

National Football League and NFL Properties, LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB MDL No. 2323

Civil Action No. 2:14-cv-00029-AB

DECLARATION OF STEVEN F. MOLO IN SUPPORT OF PETITION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES

I, Steven F. Molo, declare, pursuant to 28 U.S.C. § 1746:

1. I submit this declaration in support of the Faneca Objectors' Petition for an Award of Attorneys' Fees and Expenses in connection with services rendered to the benefit of the settlement class in the above-captioned case. I have personal knowledge of the matters set forth in this Declaration, and if called upon, I would testify as follows:

¹ In earlier proceedings in this Court, MoloLamken LLP represented seven objectors: Sean Morey, Alan Faneca, Robert Royal, Roderick Cartwright, Ben Hamilton, Sean Considine, and Jeff Rohrer. This Court previously referred to these objectors collectively as the "Morey Objectors." Three of those objectors – Sean Morey, Robert Royal, and Ben Hamilton – have since opted out. Thus, we now refer to the objectors presently represented by MoloLamken as the "Faneca Objectors."

I. FIRM BACKGROUND AND QUALIFICATIONS

- 2. I founded MoloLamken LLP along with Jeffrey Lamken in October 2009. We are a litigation boutique with offices in New York, Chicago, and Washington, D.C. MoloLamken's practice is devoted exclusively to complex civil and criminal litigation throughout the United States. We handle matters in trial courts before judges and juries, as well as in appellate courts, including the Supreme Court of the United States. Indeed, we are one of a small number of firms to appear regularly before the Supreme Court.
- 3. Our firm and its lawyers have been recognized in a wide array of legal listings and publications such as *Chambers & Partners*; *SuperLawyers*; *Lawdragon*; *Best Lawyers in America*; *Euromoney*; *PLC Which Lawyer*; *Leading Lawyers*; *Washingtonian Magazine*; *New York Magazine*; *Martindale Hubbell*; *U.S. News and World Report*; *Vault.com*; and *International Global Law Experts*. *ACQ Magazine* has named MoloLamken its U.S. Boutique Litigation Law Firm of the Year. In this past year, we were named by *The National Law Journal* to its "Litigation Boutiques Hot List" and by *Benchmark Litigation* to its list of "Top Ten Litigation Boutiques in America." Additional information about our firm can be found at http://www.mololamken.com.
- 4. On behalf of our clients, MoloLamken regularly is adverse to many of the nation's leading litigation firms and important government agencies. In the past year, apart from the lawyers we faced in this case, our opponents have included: Davis Polk & Wardwell LLP; Skadden, Arps, Slate, Meagher & Flom LLP; Williams & Connolly LLP; Jones Day; Kaye Scholer LLP; King & Spalding LLP; Orrick, Herrington & Sutcliffe LLP; Gibson, Dunn & Crutcher LLP; Sidley Austin LLP; Quinn Emanuel Urquhart & Sullivan, LLP; Paul, Weiss, Rifkind, Wharton & Garrison LLP; Simpson Thacher & Bartlett LLP; Stroock & Stroock & Lavan LLP; DLA Piper; Cozen O'Connor PC; Loeb & Loeb LLP; Jenner & Block LLP; Weil,

Gotshal & Manges LLP; Fish & Richardson PC; Durie Tangri LLP; and Covington & Burling LLP; as well as the United States Attorney's Offices for the Southern District of New York, the Eastern District of New York, the District of Columbia, the Eastern District of Virginia, the Eastern District of Wisconsin, the District of Arizona, the District of New Mexico, the Northern District of California, and the Northern District of Illinois; the United States Department of Justice's Fraud Section; the Securities and Exchange Commission's Enforcement Division; the Offices of the Inspector General for the Department of Justice and the Department of Veterans Affairs; the United States Department of Justice Public Integrity Section; Congressional investigative committees; and the Solicitor General of the United States.

- 5. Before forming MoloLamken, I was a partner at Shearman & Sterling LLP, and before that, at Winston & Strawn LLP where I was a member of the firm's executive committee. I began my career as a prosecutor. A copy of my biography is attached as Exhibit 1.
- 6. Partners and associates come to our firm with experience associates typically have clerked for one or two federal judges. The MoloLamken lawyers most significantly involved in this matter in addition to me Thomas Wiegand, Martin Totaro, Eric Nitz, Kaitlin O'Donnell, and Rayiner Hashem all have distinguished backgrounds for their respective roles in the matter. Copies of their biographies are attached as Exhibit 2. Following the completion of most of the work for the Faneca Objectors, Martin Totaro and Kaitlin O'Donnell left the firm to perform government service Mr. Totaro as a lawyer for the United States Securities and Exchange Commission and Ms. O'Donnell as an Assistant United States Attorney in Florida.

II. MOLOLAMKEN'S EFFORTS ON BEHALF OF THE SETTLEMENT CLASS

A. Our Retention To Evaluate the Fairness of the Settlement

7. In August 2013, the parties in this case announced that they signed a term sheet for a global settlement of the concussion claims against the NFL. The basic terms of the deal

were widely reported in the news media. *See* Press Release, Ret. Judge Layn Phillips, NFL, Retired Players Resolve Concussion Litigation (Aug. 29, 2013), *available at* http://static.nfl.com/static/content/public/photo/2013/08/29/0ap2000000235504.pdf.

- 8. After the public announcement of the settlement, MoloLamken was retained to evaluate the terms of the settlement and, if necessary, to advocate for further improvements to ensure that the interests of all class members were reflected in the settlement. We accepted the representation on a 100% contingent-fee basis, with our fee based solely on our improving the settlement. We did not request (and will not receive) any payment from any settlement award to any of our clients.
- 9. We immediately began evaluating the settlement, as it was described in the press release and media reports. That required review of the underlying claims and the scientific relationship between repetitive head injury, neurocognitive impairment, and neurodegenerative disease. It also required review of the NFL's actions regarding concussions and the various science the NFL had sponsored on the topic.
- 10. We concluded that the basic terms of the settlement were flawed. In anticipation of the filing of the settlement agreement and motion for preliminary approval, we began preparing an opposition that raised the issues that were initially identified in our motion to intervene. Dkt. 6019.

B. Our Advocacy Challenging the Revised Settlement

- 11. On January 6, 2014, Class Counsel and the NFL filed the Initial Settlement and a class action personal-injury complaint, along with a motion for preliminary approval of the settlement. Dkt. 5634.
- 12. The full terms of the Initial Settlement confirmed our conclusion the settlement agreement contained fundamental defects that required correction. Before MoloLamken could

file our objection to the settlement agreement, this Court recognized one of those defects: the Monetary Award Fund ("MAF") was capped at \$675 million and the parties had not offered any evidence to show that that amount would be sufficient to cover all claims by the settlement class. Accordingly, it denied preliminary approval *sua sponte*. *See In re Nat'l Football League Players' Concussion Injury Litig.*, 961 F. Supp. 2d 708 (E.D. Pa. 2014).

- 13. Our analysis of the Initial Settlement identified other issues with the settlement besides the \$675-million cap on the MAF. We recognized that the settlement did not compensate future cases of CTE which Class Counsel had claimed, and which we believed based on our own investigation to be the most significant disease resulting from repetitive head injury. We also noted that the settlement applied a 75% reduction to the monetary award of any player who suffered a stroke or a traumatic brain injury ("TBI") not related to NFL play. We realized that those defects created potential intra-class conflicts given that the proposed class representatives, Kevin Turner and Shawn Wooden, did not allege a risk of developing CTE and did not allege that they would be subject to the 75% reductions for stroke or non-NFL TBI. Our concerns about these and other deficiencies in the settlement led us to seek a seat at the negotiating table.
- 14. Based on our belief that the settlement was flawed apart from the MAF having been capped at \$675 million, we filed a motion to intervene on May 5, 2014. Dkt. 6019. Our goal was to advocate for the interests of class members that we believed had not been adequately addressed in the Initial Settlement. Our motion argued that intervention was necessary because our clients had symptoms indicative of CTE and neither of the proposed class representatives had alleged a risk of developing CTE. We also pointed out the potential intra-class conflict created by the 75% reductions for stroke or non-NFL TBI, and the fact that neither proposed class

representative had stated that they would be subject to those reductions. Our motion was the first filing to raise those potential intra-class conflicts in the settlement.

- 15. Before the Court could rule on the motion to intervene, the NFL and Class Counsel announced a Revised Settlement on June 25, 2014. Dkt. 6073. The Revised Settlement addressed the Court's concern by removing the cap on the MAF. But other problems we had identified in the Initial Settlement remained. Thus, when Class Counsel moved for preliminary approval of the Revised Settlement, we filed a combined objection to the Revised Settlement and opposition to the motion for preliminary approval. Dkt. 6082. No other class member filed an objection or opposition to the June 2014 motion for preliminary approval.
- 16. Our 47-page objection and opposition challenged the Revised Settlement on numerous grounds. For example, we argued that the failure to compensate future cases of CTE created an intra-class conflict. Dkt. 6082 at 19-26. We also challenged the settlement's failure to provide credit for seasons played in NFL Europe, and the 75% reductions for stroke and non-NFL TBI, which also created potential intra-class conflicts. *Id.* at 26-29. Those conflicts, we argued, precluded approval of the settlement under Fed. R. Civ. P. 23(a)(4). We also objected to unduly burdensome procedural requirements, such as the \$1,000 fee for appealing adverse claim determinations, *id.* at 32-35, and Class Counsel's failure to conduct discovery before settlement, *id.* at 40-47.
- 17. Our objection and opposition cited over a dozen scientific and journal articles describing cutting-edge research by scientists on the vanguard of concussion and CTE research, like Dr. Ann McKee, Dr. Robert Stern, and Dr. Steven DeKosky. Dkt. 6082 at v-ix.
- 18. The Court granted preliminary approval, setting a fairness hearing for November 19, 2014, and ordering any objections to the revised settlement to be filed by October 14, 2014.

Dkts. 6083, 6084. Recognizing that all class members would benefit if the defects in the Revised Settlement were addressed sooner, rather than later, we filed a petition seeking appellate review of the preliminary approval order under Fed. R. Civ. P. 23(f). Dkt. 6166. Both Class Counsel and the NFL filed a response, and the Third Circuit ordered us to file a reply. *See* Order, *In re Nat'l Football League Players' Concussion Injury Litig.*, No. 14-8103 (3d Cir. Aug. 8, 2014). The Third Circuit, in a special sitting, held oral argument on September 10, 2014. The petition was ultimately dismissed on procedural grounds. Our petition to the Third Circuit did not delay the fairness hearing or proceedings in this Court.

- 19. While the Rule 23(f) petition was pending before the Third Circuit, we began preparing our objection to final approval of the settlement. We filed our 86-page objection on October 6, 2014, eight days before the October 14, 2014 deadline. Dkt. 6201. Our objection explained how the intra-class conflicts created by the settlement's treatment of CTE and NFL Europe both precluded certification, *id.* at 21-36, and rendered the settlement unfair, *id.* at 54-84. It also addressed the potential intra-class conflict created by the 75% reductions for stroke and non-NFL TBI, *id.* at 32-36, the settlement's procedural hurdles to recovery, *id.* at 73-78, and the shortcomings of the BAP, including the \$75-million cap, *id.* at 72-73. We also challenged the notice. *Id.* at 37-53.
- 20. The objection included 82 supporting exhibits comprising more than 700 pages. Dkt. 6201-1 to 6201-15. Much of this material was scientific evidence journal articles and research developed through our consultation with experts in neurology and neuropsychology regarding concussions, CTE, and other neurodegenerative diseases. We thus framed the debate on the scientific evidence. The objection included an eight-page scientific appendix describing the science and symptoms of CTE. Dkt. 6201 at A4-A11.

- 21. The exhibits filed in support of our objection also included declarations from two preeminent experts, Dr. Robert Stern and Dr. Sam Gandy. Dkt. 6201-16 (Dr. Stern); Dkt. 6232-1 Dr. Stern is a Professor of Neurology, Neurosurgery, and Anatomy & (Dr. Gandy). Neurobiology at Boston University School of Medicine where he is also the Director of Clinical Research for the BU Chronic Traumatic Encephalopathy Center. Dkt. 6201-16 ¶1, 17. Dr. Stern is a leading researcher on CTE and has received funding from the NIH and the Department of Defense for his work on developing methods of detecting and diagnosing CTE. *Id.* ¶¶17-19. Dr. Gandy is Professor of Alzheimer's Disease Research and Professor of Neurology and Psychiatry at Mount Sinai School of Medicine. Dkt. 6232-1 ¶1. He is Associate Director of the Mount Sinai Alzheimer's Disease Research Center in New York City, and Chairman Emeritus of the National Medical and Scientific Advisory Council of the Alzheimer's Association. Id. Dr. Gandy is an expert on the metabolism of amyloids and applies that expertise in researching distinctions between CTE and Alzheimer's diagnoses in the living. E.g., id. ¶13-14. No other class member submitted such scientific evidence – by way of expert declarations or research articles – to the Court. Thus, we built the evidentiary record relied on by essentially all objectors.²
- 22. We also submitted evidence regarding conditions in NFL Europe. Our client, objector Sean Morey, who played three seasons in NFL Europe, submitted a declaration

² Several other objectors either incorporated MoloLamken's objection by reference or explicitly referred to the evidence that MoloLamken had submitted. *See, e.g.*, Miller Objection, Dkt. 6213 (incorporating MoloLamken's entire objection); Alexander Objection, Dkt. 6237 (incorporating sections of MoloLamken's objection); Chesley Objection, Dkt. 6242 (appending Dr. Stern's Declaration). Indeed, the Chesley Objectors, represented by Zuckerman Spaeder LLP, attached a copy of the Stern Declaration that had been filed with our objection without disclosing to the Court that this was evidence MoloLamken had obtained. Dkt. 6242-1 Ex. 1. And 29 class members submitted letters on their own behalf referencing or adopting MoloLamken's objection. A few objectors submitted one or two research articles, Dkts. 6372, 6433, or reattached evidence that had been previously submitted to the Court, Dkts. 6241, 6242, 6233.

describing the conditions that he experienced there. Dkt. 6201-17. And we developed and submitted other evidence supporting our argument that the claims of players in NFL Europe had been bargained away in the Revised Settlement. *See* Dkt. 6201 at 35 & nn.39-40 (quoting radio interview of Class Counsel and newspaper articles about injuries in NFL Europe).

- 23. Sixteen other objections were filed in this proceeding by objectors who were represented by counsel almost all at least one week after the Faneca Objectors' objection. With the exception of the Williams objection, which raised the issue of the unavailability of medical records due to *force majeure* events, the other objections reiterated arguments made in the Faneca Objectors' filing, or raised arguments that did not receive serious consideration from the Court. A summary of the issues raised in those other objections is attached as Exhibit 3.
- 24. Although MoloLamken had developed and submitted a massive scientific and evidentiary record in support of our objection, there was certain information about the claims and the settlement that was known by Class Counsel and the NFL, but not objectors. Thus, we repeatedly requested discovery from the settling parties. On September 13, 2014, we filed a motion for leave to conduct limited discovery through document requests and interrogatories in preparation for the fairness hearing. Dkt. 6169. And on October 21, 2014, we filed a motion seeking discovery of the evidence Class Counsel and the NFL would rely upon at the fairness hearing. Dkt. 6252.
- 25. On November 4, 2014, the Court appointed me, along with William Hangley of Hangley Aronchick Segal Pudlin & Schiller, liaison counsel for the objector groups and asked us to coordinate the presentation of objections at the November 19, 2014 fairness hearing. Dkt. 6344. In that capacity, our firm engaged in extensive communications with the various groups of

represented objectors – both by phone and email – to achieve the orderly and effective presentation of issues without duplication.

- 26. We sought leave to present the testimony of our expert witnesses, Dr. Stern and Dr. Gandy, at the fairness hearing. Dkt. 6339. We also requested the opportunity to cross-examine adverse witnesses with information related to the underlying claims, including Dr. Ira Casson and Dr. Elliott Pellman NFL physicians responsible for promulgating the dubious, NFL-sponsored science at the heart of the class claims. *Id.* at 8-9. No other objector sought to introduce expert testimony; no other objector sought to question adverse witnesses at the fairness hearing. Ultimately, however, the Court opted not to hear live testimony and received Dr. Stern's and Dr. Gandy's testimony through the declarations that we had submitted in support of our objection.
- 27. At the Court's direction, I made the lead argument at the fairness hearing, discussing the defects in the Revised Settlement related to CTE, NFL Europe, and the 75% reductions for stroke and non-NFL TBI, among other topics. Thomas Wiegand and Martin Totaro, both of MoloLamken, also made arguments at the Fairness Hearing, addressing a number of other shortcomings in the Revised Settlement including, among other issues, the cap on the BAP Fund, the problems with the \$1,000 appeal fee, and the problems associated with the Revised Settlement's testing regimen for neurocognitive impairments. Rather than merely attacking the Revised Settlement, we provided the Court with concrete steps that could be taken to improve it. For example, we suggested giving credit for seasons played in NFL Europe, extending the Death with CTE benefit to more class members, lifting the cap on the BAP Fund, and "evening-up" the appeal process by, among other things, accommodating financial hardship in the appeal-fee requirement.

- 28. Following the fairness hearing, the Court invited the parties to submit supplemental briefing. Throughout the case, we had followed the developing science regarding MTBI and continued discussions with experts in the fields of neurology, neuropsychology, pathology, and neuroimaging. Thus, when we submitted a supplemental brief in support of our objection, Dkt. 6455, we provided the Court with still more evidence that supported our arguments. We attached 27 exhibits to our supplemental brief, comprising over 450 pages of material. Dkt. 6455-13 to 6455-23.
- 29. Moreover, both Dr. Stern and Dr. Gandy submitted supplemental declarations addressing scientific points raised by the NFL and Class Counsel, which expanded on the conclusions in their earlier declarations. Dkt. 6455-1 (Dr. Stern); Dkt. 6455-2 (Dr. Gandy). But even beyond those supplemental declarations, our firm recruited *nine* additional prominent experts in neurology and related fields to submit declarations attesting to statements about CTE that were well-accepted in the scientific community. Like Dr. Stern and Dr. Gandy, these additional experts are all at the top of their fields and among the most distinguished researchers in neuroscience.
 - a. Dr. Patrick Hof is the Regenstreif Professor of Neuroscience at the Icahn School of Medicine at Mount Sinai, New York. Dkt. 6455-3 ¶1. The Director of Mount Sinai's Kastor Neurobiology of Aging Laboratories, Dr. Hof researches selective neuronal vulnerability in dementing illnesses. *Id.* Ex. A at 2, 6.
 - b. Dr. Jing Zhang is the Shaw Endowed Professor of Pathology at the University of Washington, Seattle. Dkt. 6455-4 Ex. A at 1. Dr. Zhang's

- research covers identification of biomarkers used to diagnose and track the progression of neurodegenerative disorders. *Id.* Ex. A at 2, 6-7.
- c. Dr. Martha Shenton is a Professor in the Department of Psychiatry and Radiology at Brigham and Women's Hospital and Harvard Medical School. Dkt. 6455-5 ¶1. Dr. Shenton is the Director of the Psychiatry Neuroimaging Laboratory and has expertise in the neuroimaging of brain abnormalities. *Id.* Ex. A at 3, 10.
 - d. Dr. Charles Bernick is the Associate Medical Director of the Cleveland Clinic Lou Ruvo Center for Brain Health. Dkt. 6455-6 ¶1. Dr. Bernick is the lead researcher on a longitudinal study at the Cleveland Clinic to measure the effects of long-term head trauma in combat sports, focusing on early identification of neurocognitive decline and the prediction of long-term neurological consequences. *E.g.*, *id.* Ex. A at 5, 7-8; *see also* Charles Bernick, NRPA 2015 Annual Conference, https://nrpa.event sential.org/Speakers/Details/86868.
- e. Dr. Michael Weiner is a Professor in Radiology and Biomedical Engineering, Medicine, Psychiatry, and Neurology at the University of California, San Francisco. Dkt. 6455-7 ¶1 & Ex. A at 3. Dr. Weiner's research covers the development and utilization of MRI and PET for investigating and diagnosing neurodegenerative diseases, and he is the Principal Investigator of the Alzheimer's disease Neuroimaging Initiative, one of the largest observational studies in the world concerning Alzheimer's disease. *Id.* Ex. A at 5.

- f. Dr. James Stone is an Associate Professor of Radiology and Medical Imaging at the University of Virginia Health System. Dkt. 6455-8 Ex. A at 2. Dr. Stone is the co-director of the University of Virginia Brain Injury and Sports Concussion Institute which covers research in traumatic brain injuries through molecular imaging and MRI diagnoses. *Id.* ¶1.
- g. Dr. Thomas Wisniewski is a Professor of Neurology, Pathology and Psychiatry at New York University School of Medicine. Dkt. 6455-9 ¶1. Dr. Wisniewski runs an active research laboratory focusing on neurodegenerative disorders and is also the co-director of the NIH-funded NYU Alzheimer's Disease Center. *E.g.*, *id.* Ex. A at 10-12.
 - h. Dr. Steven DeKosky served as the Dean of the University of Virginia School of Medicine until 2013. Dkt. 6455-10 Ex. A at 3. He is currently the Aerts-Cosper Professor of Alzheimer's Research at the University of Florida College of Medicine, and is Deputy Director of the McKnight Brain Institute. *See* Steven T. DeKosky, UF Department of Neurology, http://neurology.ufl.edu/divisions-2/memory-and-cognitive-disorders/memory-and-cognitive-faculty/steven-t-dekosky-md/. Dr. DeKosky's research centers on structural and neurochemical changes from traumatic brain injuries. Dkt. 6455-10 Ex. A at 7. He was an author of the first report on CTE in American professional football players. Dkt. 6201-11 Ex. 56.
 - Dr. Wayne Gordon is the Jack Nash Professor and Vice Chair of the Department of Rehabilitation Medicine at the Icahn School of Medicine at

Mount Sinai, New York. Dkt. 6455-11 ¶1. Dr. Gordon provides neuropsychological evaluations and treatment for individuals who have sustained a brain injury, and he received a recognition award from the New York State Department of Health for his "visionary work" in traumatic brain injuries. Wayne A. Gordon, Mount Sinai, http://www.mountsinai.org/profiles/wayne-a-gordon.

- 30. We filed our supplemental brief with supporting evidence on December 2, 2014. Dkt. 6455. The 30-page filing specifically addressed arguments raised by Class Counsel and the NFL. Moreover, it identified potential improvements to the Revised Settlement that would address our previously identified concerns. *Id.* at 30-31.
- 31. We also continued our efforts to unearth information relevant to the settlement. On December 9, 2014, we filed a motion for the production of documents by the NFL concerning the exposé *League of Denial: The NFL's Concussion Crisis*, and insurance coverage. Dkt. 6461. On December 9, 2014, we filed a motion for disclosure by Class Counsel and the NFL of payments made to their experts. Dkt. 6462.
- 32. In all, MoloLamken prepared and filed with this Court over 150 pages of legal analysis explaining why defects in the settlement rendered it unfair. In support of those filings, we compiled an evidentiary record consisting of more than 100 exhibits containing more than 1,000 pages of evidence and scientific research. We obtained declarations from *eleven* of the most prominent and well-respected researchers in the fields of neurology, neuropsychology, pathology, and bioimaging, including the world's leading researchers on CTE.
- 33. This Court credited many of our arguments and much of our evidence. On February 2, 2015, it issued an Order identifying changes that it believed would enhance the

fairness of the Revised Settlement. Dkt. 6479. Specifically, the Court suggested that the parties: provide some credit for seasons played in NFL Europe, ensure a baseline examination for each qualifying class member regardless of the cap on the BAP Fund, provide a hardship provision waiving the appeal fee in certain cases, and extend the Death with CTE Qualifying Diagnosis to individuals who died prior to Final Approval. *Id.* The Court also suggested that the parties consider providing reasonable accommodation for class members whose medical records were unobtainable because of *force majeure* events. *Id.*³

34. The settling parties adopted all of the Court's recommendations, resulting in the Final Settlement. Dkt. 6481 & Ex. A. These changes to the Revised Settlement dramatically improved its value, in particular the provision of credit for seasons played in NFL Europe, the extension of the timeline for the Death with CTE payment, and the guarantee of receiving a baseline assessment examination.

C. Our Work in Attempting To Further Improve the Revised Settlement Through Negotiations

35. Still, these improvements to the Revised Settlement did not fully address what we saw as a substantial issue – the treatment of CTE. Heartened by the NFL's willingness to continue refining the Revised Settlement, we began exploring and researching how to provide some additional benefit for CTE (or its symptoms) in a way the NFL might find acceptable. As part of that research, we continued our discussions with our experts to identify the most cost-effective ways of treating CTE or alleviating its symptoms. I consulted with Chris Seeger, Co-Lead Class Counsel, and informed him that we remained concerned about the Revised Settlement's treatment of CTE and that I wanted to negotiate directly with the NFL and use the

³ The accommodation for class members whose medical records were lost because of *force majeure* events was *not* raised by MoloLamken. It was raised by the Estate of Delano R. Williams, Dkt. 6221, represented by the Shah Law Firm.

prospect of MoloLamken forgoing an appeal in exchange for further improvements related to CTE. Mr. Seeger supported our efforts to attempt to further improve the Final Settlement.

- 36. In April 2015, I, along with my partner Thomas Wiegand, met with counsel for the NFL, Brad Karp and Bruce Birenboim of Paul, Weiss, Rifkind, Wharton & Garrison LLP, in person and over the phone, to propose further revisions to the Final Settlement that would enhance the benefit associated with CTE. We provided the NFL with a written presentation and had follow-up phone conversations with the NFL's counsel to further discuss the proposal.
- On April 22, 2015, the Court issued its order certifying the class for settlement purposes and giving final approval to the Final Settlement. Dkts. 6509, 6510. MoloLamken continued discussions with counsel for the NFL in the hope of securing further modifications to the settlement. Recognizing the pressing need to provide relief to the class as soon as possible, we hoped we could obtain additional benefits and obviate the need for appeal. Ultimately, the NFL rejected our proposal. We then made a second proposal to the NFL with an alternative means of financing further benefits for symptoms associated with CTE. MoloLamken and counsel for the NFL had multiple phone conversations in May 2015 about the second proposal. Notwithstanding our efforts, the NFL was unwilling to further modify the settlement.

D. Our Work on Appeal

- 38. Believing there were significant issues on appeal, the Objectors represented by MoloLamken filed a notice of appeal on May 22, 2015. Dkt. 6568.
- 39. MoloLamken prepared and coordinated filing of the joint appendix for the benefit of all appealing objectors as well as the settling parties. We filed our opening brief on August 19, 2015. Faneca CA3 Br., No. 15-2304. Given that many of our objections were addressed in the Final Settlement, our challenges on appeal largely focused on the settlement's treatment of CTE and the 75% reductions for stroke and non-NFL TBI. We argued that the class lacked

adequate representation, in contravention of Rule 23(a)(4), and that the Final Settlement was not fair, adequate, and reasonable, in contravention of Rule 23(e). Other objectors who appealed from the final approval order relied heavily on the evidentiary record we had compiled and echoed arguments that we had been making since we filed our motion to intervene in this Court on May 5, 2014. *See, e.g.*, Armstrong CA3 Br., No. 15-2272, at 6-11, 13-14, 18-19, 34-36; Jones CA3 Br., No. 15-2291, at 4. Others adopted our arguments by reference. *See* Heimburger CA3 Br., No. 15-2206, at 5; Carrington CA3 Br., No. 15-2234, at 6, 15; Anderson CA3 Br., No. 15-2230, at 25.

- 40. The Third Circuit held oral argument on November 19, 2015 in an extended, two-hour session. I presented the lead opening argument and the final rebuttal argument, focusing on fairness and adequacy of representation, and the other issues that we had briefed. The argument occurred while I was in the midst of a jury trial in the United States District Court for the Southern District of New York in which I was representing the former Speaker of the New York Assembly, who was facing corruption charges. The judge adjourned the trial to allow me to go to the Third Circuit and argue the appeal.
- 41. All throughout the briefing of the appeal, and even after oral argument, we continued monitoring for factual and scientific developments relevant to the case. For example, we drew the court's attention to recent scientific evidence suggesting "a direct link from TBI to CTE." Faneca CA3 Br. 40 (quoting Kondo *et al.*, *Antibody Against Early Driver of Neurodegeneration* cis *P-tau Blocks Brain Injury and Tauopathy*, Nature (July 15, 2015)). We also were the first to draw the court's attention to statements from NFL Vice President Jeff Miller admitting a link between concussion and CTE. Faneca CA3 28(j) Letter, No. 15-2304.

42. On April 18, 2016, the Third Circuit issued its opinion affirming the Court's final approval order. *In re Nat'l Football League Players' Concussion Injury Litig.*, 821 F.3d 410 (3d Cir. 2016). Even though the Third Circuit affirmed this Court's approval of the Final Settlement, it noted the value to the class resulting from the truly adversarial process occasioned by the Faneca Objectors' advocacy. "[O]bjectors," the Third Circuit explained, were "well-intentioned in making thoughtful arguments" and "aim[ed] to ensure that the claims of retired players [were] not given up in exchange for anything less than a generous settlement agreement negotiated by very able representatives." *Id.* at 447.

E. Our Decision Not To Seek Supreme Court Review

- 43. Drawing on our firm's extensive experience in Supreme Court advocacy, we closely analyzed that opinion. Several lawyers with the firm including my partner Jeffrey Lamken, one of the nation's leading Supreme Court advocates participated in that analysis. A copy of Mr. Lamken's biography is attached as Exhibit 4. Professor Linda Mullenix did as well. We considered whether the Third Circuit's decision merited Supreme Court review. We ultimately concluded it did not. For that reason, the objectors represented by MoloLamken did not seek further review in the Supreme Court. An almost three-year campaign to improve the settlement had resulted in a Final Settlement with a financial value more than \$100 million greater than the value of the Revised Settlement previously negotiated between Class Counsel and the NFL. We recognized that it was in the best interests of the class for the Final Settlement to be implemented as quickly as possible. At all times, we have been mindful that this case was not an academic exercise and that the relief being sought has a direct impact on the lives of seriously injured individuals as well as those closest to them.
- 44. Although our efforts to secure further improvements beyond those in the Final Settlement were unsuccessful, those efforts still brought substantial benefits to the class. They

ensured that the settlement ultimately approved by the Court was the very best settlement that could have been achieved for the class – in a highly complex matter involving evolving science. As our attempt to negotiate further benefits proved, there were no more concessions to squeeze from the NFL. And our vigorous advocacy on appeal ensured that any open questions about the Final Settlement's compliance with Rule 23 were resolved.

III. MOLOLAMKEN'S TOTAL FEES AND EXPENSES

- 45. Over the course of three years and two months, MoloLamken devoted a total of 6,004.2 hours of time on behalf of the class. At current hourly billing rates for attorneys and professional support staff, that represents a lodestar of \$4,098,319.00.⁴ Exhibit 5 is a chart summarizing the total number of hours and fees that MoloLamken devoted to this litigation. The hourly rates reflected are current market rates that other clients have agreed to pay MoloLamken for legal representation. Based upon my experience, these rates are consistent with those charged by law firms engaged in the type of complex, high-stakes work that our firm does. As a further indication of the reasonableness of the rates used, we would welcome a comparison of our hourly rates to those of Paul, Weiss, Rifkind, Wharton, & Garrison LLP, our distinguished chief opponent as counsel to the NFL. Exhibit 6 is a chart summarizing the total number of hours by litigation task.
- 46. As explained above, MoloLamken litigated this matter on a 100% contingent-fee basis. Ordinarily, we would expect to negotiate a fee of between 35% and 45% to undertake a representation of this nature on a 100% contingent-fee basis.

⁴ Because MoloLamken has requested a fee based on the value we brought to the settlement, and is submitting summaries of time spent only as a lodestar cross-check, we have not submitted detailed time entries for the work that our attorneys performed. Doing so would require extensive review and redaction to preserve privilege. Nevertheless, should the Court request those time entries – which are extensive – they can be provided. *See In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 306-07 (3d Cir. 2005).

- 47. MoloLamken also incurred substantial expenses in the course of this matter. In total, MoloLamken expended \$47,998.52 in costs and expenses. Those costs and expenses are broken down by category in the chart attached as Exhibit 7. Those costs were incurred on behalf of the class and are listed as actual costs with no administrative overhead applied. Consistent with MoloLamken's practices, the expense statement does not reflect charges for ordinary expenses like standard electronic research, ordinary copying, local travel, secretarial overtime, and standard postage. The expenses are reflected in MoloLamken's books and records, and were prepared from receipts, check records, and other source materials. They represent an accurate recording of the expenses that MoloLamken actually incurred.
- 48. I have reviewed the time and expenses reported by my firm in this case that are included in this declaration, and I affirm that they are true and accurate. In my experience, these fees and expenses are reasonable.
- 49. In the course of representing objectors in this case, MoloLamken associated with William Hangley of the law firm Hangley Aronchick Segal Pudlin & Schiller. Mr. Hangley and his firm are highly regarded advocates and worked closely with me and other members of MoloLamken. They were of great assistance in securing the benefits to the class described in this declaration. Mr. Hangley's firm devoted 281.8 hours of time to this case which, at their standard hourly billing rates, amounts to \$175,058.50 in fees. Hangley Aronchick also incurred \$3,829 in expenses. Attached as Exhibit 8 is a declaration of Mr. Hangley attesting to his firm's involvement in the case. His description of his firm's work in this matter is accurate.
- 50. MoloLamken also retained Prof. Linda Mullenix, an expert in class action law, to assist in the representation. Prof. Mullenix worked closely with me and other members of MoloLamken. Her services, too, were a valuable asset to our successful efforts to improve the

settlement. Prof. Mullenix devoted 71.25 hours of consulting time to this case. At her standard hourly rates, that amounts to a total fee of \$39,187.50. Attached as Exhibit 9 is a declaration of Prof. Mullenix attesting to her involvement in this case. Her description of her work in this matter is accurate.

IV. <u>DATA REGARDING THE VALUE OF IMPROVEMENTS RESULTING FROM MOLOLAMKEN'S EFFORTS</u>

- 51. Attached as Exhibit 10 is a table reflecting the total number of "compensated seasons" in the settlement. A "compensated season" is an eligible season under the settlement that will increase the size of a class member's monetary award. Because all class members with five or more seasons receive 100% of the maximum monetary award, all such players are listed as having only five "compensated seasons" whether their career in the NFL spanned five years, ten years, or more. The data in this table regarding the number of years played and the number of players was drawn from Table 4-3 of Class Counsel's actuarial report. Dkt. 6167 at 18. The total number of compensated seasons under the settlement was calculated by multiplying the number of players by the number of compensated seasons.
- 52. Attached as Exhibit 11 is a table showing the names of players who played in NFL Europe, the number of seasons each played in NFL Europe (excluding years in which the player also played a season in the NFL), and the number of seasons each player played in the NFL (if any). Data were obtained from The Football Database, *NFL Europe/World League of American Football*, http://www.footballdb.com/nfl-europe.
- 53. Attached as Exhibit 12 is a table showing the retired NFL players who died between the date of preliminary approval (July 7, 2014) and the date of final approval (April 22, 2015). Data regarding the individuals, the date of their death, and their age at death were taken from Oldest Living Pro Football Players, 2016-2010 Pro Football Necrology List,

http://www.oldestlivingprofootball.com/present2010necrology.htm#961267027. Unless otherwise indicated on the chart, the number of seasons played for each player was taken from statistics on the NFL's website.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: January , In New York, New York



Steven F. Molo

Steven Molo, one of the country's leading courtroom advocates, is a founding partner of the national litigation boutique, MoloLamken LLP. He represents corporations, boards, funds, investors, inventors, and individuals in complex business litigation, white collar criminal and regulatory matters, and IP litigation. His client base is international.

For the past seven years he has been named to Lawdragon's list of the 500 Leading Lawyers in America. He has been recognized in *SuperLawyers*, *Best Lawyers in America*, *Chambers Guide to the World's Leading Business Lawyers*, *Benchmark Litigation*, *Euromoney*, *PLC Which Lawyer*, and other guides to the leaders of the legal profession. ACQ Magazine recently named him New York Litigation Lawyer of the Year.

Mr. Molo regularly tries civil and criminal cases before juries and judges throughout the country. He has extensive experience in post-trial and appellate advocacy as well. Chambers and Partners calls him "fantastic in the courtroom"; "fabulous courtroom litigator who lights up the room with his presence." Benchmark Litigation – which named him one of the top 100 Trial Lawyers in America – calls him "an outstanding advocate and fearless in court."

He began his career as a prosecutor in Chicago, then practiced with Winston & Strawn where he was a senior litigator and member of that firm's Executive Committee. He spent five and a half years as a litigation partner with the Wall Street firm Shearman & Sterling before founding MoloLamken in October 2009.

He has been involved in some of the most complex legal issues in the U.S. courts over the past 20 years. Frequently, Mr. Molo and the firm are asked to work with other counsel in representing a client after a matter has been pending and the need for additional courtroom experience becomes apparent.

He has represented many directors, CEOs, and other executives in a variety of sensitive matters.

The civil commercial matters he has handled include those involving issues of antitrust, breach of contract, fraud, shareholder rights, structured products and derivatives, insurance, RICO, mergers and acquisitions, real estate, insolvency and restructuring, defamation and privacy, securities, banking, and consumer fraud. His cases frequently involve class actions as well as individual suits. He has testified as an expert on New York commercial law in the High Court of Justice in London.

His criminal matters have included those involving issues of antitrust, mail, wire, bankruptcy and securities fraud, health care fraud, insurance fraud, environmental crimes, obstruction of justice, tax fraud, and other complex crimes. He frequently conducts internal investigations for management, boards, and audit committees. He co-authored the leading treatise, *Corporate Internal Investigations*, and has been recognized as an expert in federal court where he has testified on that topic and corporate prosecutions.

Honors & Awards

Recognized by peer and client review for inclusion in Best Lawyers in America (New York: commercial litigation, white collar defense, appeals), Chambers Guide to the World's Leading Business Lawyers, Superlawyers, PLC Which Lawyer? (hiahly recommended, New York, disputes), Euromoney's Guide to the World's Leading White Collar Crime Lawvers. Leading Attorneys (business litigation, white collar criminal defense, antitrust, appeals), Who's Who in America, Who's Who in the Law, and Who's Who in Business and Finance

Named to the Lawdragon 500 Leading Lawyers in America, Benchmark Litigation Top 100 Trial Lawyers in America

Education

University of Illinois, College of Law, J.D., 1982

University of Illinois, College of Communications, B.S., 1979



Steven F. Molo

Mr. Molo also has served as trial counsel in intellectual property matters including patent, trademark, trade dress, trade secret, and copyright cases.

He serves on the editorial advisory board of *Today's General Counsel* and speaks and writes extensively on the subjects of business litigation, corporate criminal liability, and trial and appellate advocacy. He has commented on legal topics for CNN, CNBC, *The Wall Street Journal, The New York Times*, the *Chicago Tribune* and other news media. He has taught or lectured at Northwestern University Law School, Loyola University of Chicago Law School, John Marshall Law School, SMU Law School, William & Mary Law School, the University of Illinois College of Law, and the National Institute for Trial Advocacy. He is also co-author and general editor of *Your Witness: Lessons on Cross-Examination and Life from Great Chicago Trial Lawyers*. For five years, he served as counsel to the Illinois Judicial Inquiry Board. He is a fellow of the American Academy of Appellate Lawyers. He is also a fellow of the American Bar Foundation.

Bar and Court Admissions

New York Illinois

United States Supreme

Court

United States Courts of Appeals for the 2nd, 3rd, 4th, 5th, 7th, 9th, 11th, D.C., and Federal Circuits

Solicitor, Law Society of England and Wales

London Court of International Arbitration



Steven F. Molo

Representative Matters

- Investors in Residential Mortgage Backed Securities trusts in proceedings to determine the distribution of a \$9 billion settlement among various classes of bondholders
- The former Speaker of the New York Assembly in a federal criminal jury trial on charges of public corruption
- A prominent doctor in a federal criminal jury trial on charges of health care fraud
- Several former NFL players in objecting to the fairness of the class action settlement of the "Concussion Litigation"
- Several trustees and investors in Residential Mortgage Backed Securities trusts in a series of suits to recover for the diminution in the value to the trust as a result of the conduct of the parties originating the mortgage loans
- An Asian government in litigation in the United States and United Kingdom relating to an arbitral award based on a dispute concerning the construction of a power plant and development of a mine
- A senior financial services executive in a federal criminal jury trial on charges of perjury and obstruction of justice
- An inventor in prosecuting claims of patent infringement relating to real-time data technology
- Several groups in successfully challenging New York City's ban on super-sized sugary drinks
- A former pharmaceutical executive in prosecuting a whistleblower claim
- An Israeli pharmaceutical manufacturer in prosecuting a \$4+ billion claim for fraud and breach of contract based on its acquisition of a Mexican company
- A publicly traded media company in litigation relating to a \$1.8 billion debt restructuring
- An investor seeking recovery of \$800 million in losses on a "holder claim" based on the decline in stock value of one of the world's largest banks during the financial crisis
- A former CEO of a publicly traded retailer in defending criminal securities fraud charges
- A former managing director of a leading investment bank in defending criminal securities fraud charges related to the sale of derivatives
- The former CEO of an auto manufacturer in connection with a DOJ investigation of U.S. environmental laws
- A private equity firm in a lawsuit over post-closing purchase price adjustments in connection with the sale of a portfolio company
- A global consulting firm in investigating a senior executive's misconduct
- A CEO of a leading financial services firm in a dispute with a former firm member concerning investments

Publications

Books

Corporate Internal Investigations

Your Witness: Lessons on Cross-Examinations and Life General editor and author

Executive's Guide to Understanding the Laws Behind White Collar Crimes Chapter author

Successful Partnering Between Inside and Outside Counsel Chapter author

The Executive's Desk Book on Corporate Risks and Response for Homeland Security Chapter author

Recent Articles

Wrong, maybe. But is it a crime? Hedgeworld

Find a Career, Not a Job New York Law Journal Magazine

To Fight or Not to Fight New York Law Journal



Steven F. Molo

Representative Matters

- A leading insurance company in investigating fraud by a major vendor and related civil litigation
- A Fortune 500 company in prosecuting a legal malpractice case against an Am Law 50 firm
- A senior executive of a Japanese manufacturing company in a price-fixing investigation conducted jointly by USDOJ and the JFTC
- A CDO management firm in connection with civil litigation and regulatory matters emanating from the global financial crisis
- A private Silicon Valley technology company in a bench trial against one of the world's largest banks based on events arising from an m&a transaction
- An investment bank in obtaining judgment in its favor and the reversal of a \$1.6 billion jury verdict in a suit alleging fraud in connection with its role in a corporate acquisition
- A former senior executive of Bear Stearns in ERISA and securities litigation and related matters
- A former CEO and private equity firm partner in obtaining dismissal of a federal indictment charging securities and bank fraud as well as obstruction of agency proceedings
- A former Foreign Service Officer and West Point graduate in a federal criminal jury trial on charges of bribery and conspiracy to facilitate the issuance of visas in violation of State Department policies
- The former CFO of a publicly traded technology company in a federal criminal jury trial, regulatory, and civil proceedings based on alleged securities and accounting fraud
- A major broker-dealer in a civil jury trial in which a hedge fund claimed fraud in the sale of collateralized mortgage obligations
- A hedge fund in a suit in the Delaware Chancery Court challenging a gate and proposed restructuring of another fund in which it invested
- An entertainment company in a lengthy arbitration involving allegations of 10b-5 violations and other claims following an acquisition
- The world's largest insurance broker in a civil jury trial concerning senior executive compensation
- A leading real estate developer and its lender in a bench trial relating to a dispute with a major tenant
- A lending syndicate in defending multi-billion dollar tort claims and in prosecuting a personal guaranty action against a prominent real estate developer (and reality TV show host) relating to financing of 92-story building in Chicago

Professional Affiliations

- American Inns of Court Foundation, Trustee
- United States Supreme Court Historical Society, Trustee
- New York Inn of Court, Member (Past Vice President, Executive Committee)
- Illinois Supreme Court Rules Committee, Member (2004 -2010)
- Seventh Circuit Bar Association (Past President)
- Federal Bar Council, Member (Courts Committee)
- Chicago Inn of Court, Member (Past President)
- American, Illinois, Chicago Bar Association, Member
- American Bar Association, Trial Attorney Advisory Board, Member
- Association of the Bar of the City of New York, Member
- Scribes, The Society of Legal Writers, Member
- Economic Club of Chicago, Theodore Roosevelt Association, Member
- University of Illinois College of Law Board of Visitors, Member



Steven F. Molo

Representative Matters

- Two non-U.S. financial institutions in connection with recovery actions and the defense of claims relating to Madoff
- The Illinois Senate relating to procedures for the impeachment trial of the Governor
- A non-US based insurance holding company in SEC and DOJ investigations into balance sheet fraud through finite reinsurance
- A New York real estate developer in investigating and reporting a ponzi scheme fraud perpetrated by the client's former lawyer, the name partner of a prominent New York firm
- A senior mutual fund executive in an investigation by the SEC and New York Attorney General
- A midwest manufacturing company in an internal investigation and defense of an SEC investigation relating to insider trading
- A CEO in numerous shareholder and derivative actions, parallel SEC proceedings, and a trial before the bankruptcy court relating to allegations of fraud and breach of fiduciary duties following the discovery of accounting irregularities
- The nation's largest bar review course provider in a civil antitrust class action alleging a price-fixing and market allocation conspiracy and a separate civil antitrust class action alleging product tying
- A national insurance company in defending a federal grand jury investigation, state regulatory inquiries, consumer class actions, whistle-blower allegations, and media scrutiny emanating from claims handling practices following a major natural disaster
- A midwest manufacturing company in a DOJ grand jury investigation into price-fixing in the market for certain building supplies
- A publicly traded insurance broker in multiple consumer class actions alleging civil antitrust and RICO violations, as well as Attorneys General and insurance regulatory investigations
- A national retailer in attempted nationwide consumer fraud class actions in multiple forums and Attorney General investigations
- A national publisher and sweepstakes company in an appeal of a class certification order in an attempted consumer class action
- A group of mortgage lenders in an appeal of an order challenging certain lending restrictions
- A major broker-dealer in an appeal in litigation relating to sales practices which resulted in a challenge to certain whistle-blower legislation



Steven F. Molo

Representative Matters

- A majority shareholder of a public company in shareholder derivative litigation relating to Revlon duties and change of control
- An investment advisor and mutual fund company in a derivative suit alleging breaches
 of fiduciary duty relating to fund management
- A global pharmaceutical manufacturer in a federal grand jury investigation and civil litigation emanating from a foreign subsidiary's falsification of information to the FDA
- A internet telephone services provider in patent infringement litigation relating to the company's core technology
- A gaming company in defending allegations of trademark and trade dress infringement in injunction proceedings in the trial court
- A manufacturer of batteries in pursuing copyright, trademark, and trade dress claims relating to a well-known advertising campaign
- A licensor of an agribusiness technology in patent infringement litigation
- A rock star in defending copyright infringement allegations in the trial court and court of appeals
- A major political party in a trial before a three-judge federal district court relating to voter rights and legislative reapportionment issues



Thomas J. Wiegand

Tom Wiegand is a trial lawyer who represents clients across the country in complex business litigation, class actions, white-collar criminal matters, personal and family trust disputes, antitrust matters, and state and federal government investigations. Mr. Wiegand wrote his third year thesis for Prof. Phillip Areeda, the author of the definitive treatise on antitrust law. After law school Mr. Wiegand worked with the negotiation think tank and consulting business of Prof. Roger Fisher, author of *Getting to Yes*. Mr. Wiegand then gained his litigation and trial experience over 20 years at Winston & Strawn LLP before joining MoloLamken in 2011.

Mr. Wiegand has represented both plaintiffs and defendants in complex business litigation matters involving a wide variety of claims, including common law and UCC contract claims, statutory and common law fraud, fiduciary duty, and myriad federal and state statutory claims, including RICO, TILA, FCRA, the Lanham Act, the Sherman Act, and various securities laws. He also has represented clients in numerous state and federal class actions, including federal classes that are grouped through the federal Multidistrict Litigation Panel, which have involved cutting edge procedural and substantive issues.

Representative Matters

- Obtaining summary judgment on behalf of a national moving company defeating claims in a putative class action under the Motor Carrier Act (Mervyn v. Nelson Westerberg and Atlas van Lines, 2016 WL 1270416 (N.D. III. Mar. 31, 2016))
- Representing RMBS Trustees in repurchase claims against originators of subprime home mortgage loans based on breaches of representations and warranties
- Obtaining at arbitration an order to refund client's investment in a feature-length film project based on the Pulitzer Prize-winning book Interpreter of Maladies (April 2015)
- Representing former NFL athletes in objecting to class settlement re concussions
- Obtaining favorable settlement for professional service firm against group of former employees and their new employer for breach of fiduciary duty
- Obtaining favorable settlement for group of Google employees who were sued by their former employer Groupon relating to a non-compete agreement

Education

Harvard Law School, J.D., 1986

Yale College, B.A. in Economics, magna cum laude 1983

Honors

Illinois Super Lawyer, 2009-2016

New York Super Lawyer, 2015-2016

Bar and Court Admissions

New York

Illinois

United States Courts of Appeals for the 2nd, 4th, 5th, 6th, 7th, 11th, and Federal Circuits

Professional Affiliations

Board of Governors, Seventh Circuit Bar Association

Member, CPLR Committee of the NY State Bar Association

Member, Chicago Inn of Court

Member, American Bar Association Litigation Section

Served on the board of the Antitrust and Unfair Competition Section of the Illinois State Bar Association

Serves on Board of Yale Crew Association

Served as a board member of Over the Rainbow Association and of Joseph Sears School



Thomas J. Wiegand

Representative Matters (cont.)

- Obtaining favorable settlement against ad agency and its client that infringed Car Freshner's famous trademarks
- Defeating motion for class certification of a set of consolidated class actions involving the recall by the CPSC of over 4 million units of a children's arts and crafts toy (*In re Aqua Dots Products Liability*, 270 F.R.D. 377 (N.D. III. 2010))
- Defeating named plaintiffs' motion for class certification involving claims of cyber-squatting relating to domain names on the Internet (Vulcan Golf LLC v. Google Inc., 254 F.R.D. 521 (N.D. Ill. 2008))
- Winning summary judgment dismissing the claims against all named plaintiffs seeking to represent a putative class of home equity borrowers in Alameda County, California, against a consumer finance company
- Winning dismissal of the claims of a putative class action relating to accessing credit report information to advertise for loans (Zawacki v. Discover Financial Services, 2007 WL 625454 (N.D. III. 2007))
- Winning summary judgment dismissing all claims brought against UOP LLC by Archer Daniels Midland Company on UCC warranty theories
- Obtaining dismissal of a consumer class action against DaimlerChrysler in Cook County, Illinois (Evitts v. DaimlerChrysler, 834 N.E.2d 942)
- Defending Lear Corporation in federal court jury trial over a \$75 million contract claim by a supplier
- Obtaining summary judgment against plaintiffs in Jefferson County, Mississippi, on behalf of a consumer finance company in a "mass joinder" fraud action
- Obtaining dismissal by the court of a federal RICO count at the conclusion of a six-week criminal trial (U.S. v. Serpico, 2001 WL 803703)
- Representing Sears, Roebuck and Co. in several putative national consumer class action lawsuits and state attorney general investigations (including *Poe v. Sears*, 1998 WL 113561; *Kelly v. Sears*, 720 N.E.2d 683; and *Feuerman v. Sears*, 1996 WL 648966)
- Representing Reader's Digest in its successful Illinois appeal that reversed a trial court's class certification decision
- Representing Interstate Brands in a 22-state product recall of Twinkies and other snack cakes due to allegations of improper asbestos removal from the bakery (including class actions and government investigations)



Thomas J. Wiegand

Representative Matters (cont.)

- Successfully representing Interstate Brands in a DOJ antitrust division contest of the 1995 acquisition of Continental Baking
- Defending Gateway, Inc. in a putative national class action of purchasers of a certain PC configuration, which concluded successfully when the trial court's certification of a nationwide class was overridden by the Seventh Circuit's direction that an arbitration clause had to be enforced and that a class arbitration was not permissible (Hill v. Gateway, 105 F.3d 1147).



Martin V. Totaro

Martin Totaro focuses his practice on all aspects of appellate litigation in the federal courts of appeals and the U.S. Supreme Court. He also assists clients with motions practice and issue analysis at the trial level. He has represented corporations in various industries, business associations, individual criminal defendants, and veterans.

Prior to joining MoloLamken, Mr. Totaro was an associate at Baker Botts. He also served as law clerk to the Honorable D. Brooks Smith of the United States Court of Appeals for the Third Circuit.

Representative Matters

- Major energy corporation in merits-stage briefing in the U.S. Supreme Court in a case involving the requirements for class certification in a securities fraud suit
- Group of leading corporations in amicus briefs in the U.S. Supreme Court at the certiorari- and merits-stage in a case involving the standard for class certification pursuant to Federal Rule of Civil Procedure 23(a)
- Group of 14 public pension funds and an association of over 120 pension funds in an amicus brief in the D.C. Circuit in a case involving SEC proxy access rules
- Instrumentality of a foreign government in certiorari-stage briefing in the U.S. Supreme Court in a case involving the scope of the Terrorism Risk Insurance Act of 2002
- Individual criminal defendant in district court litigation involving alleged violations of the Federal Election Campaigns Act
- Professional association of federal judges in an amicus brief in the U.S. Supreme Court in a case involving the U.S. Constitution's Compensation Clause
- Major energy corporation in certiorari-stage briefing in the U.S. Supreme Court in a case involving the due- process limits to punitive damages
- Major competitive local exchange carrier in a certiorari-stage briefing in the U.S.
 Supreme Court in a case involving reciprocal compensation requirements of the 1996
 Telecommunications Act
- Vietnam veteran in the U.S. Court of Appeals for the Federal Circuit in a case involving denial of veteran's benefits; in the Federal Circuit as amicus in a case raising the same legal issue (briefed and argued); and in the U.S. Supreme Court as counsel of record, filing an amicus brief on his behalf

Clerkships

Law clerk to the Honorable D. Brooks Smith, United States Court of Appeals for the Third Circuit

Education

University of Virginia School of Law, J.D., 2006

Articles Editor, Virginia Law Review

University of Chicago, M.A., 2003

State University of New York at Binghamton, B.A., 2002

Summa cum laude

Bar and Court Admissions

District of Columbia

Virginia

United States Courts of Appeals for the 3rd, 4th, and Federal Circuits

United States District Court for the Eastern District of Texas

Publications

"Local Jurisdiction over Foreign Companies," Executive Counsel, 2012 (with Robert K. Kry)

"Legal Positivism, Constructivism, and International Human Rights Law," Virginia Journal of Int'l Law, 2008

Book Review, "The Other Path of Neoconservatism," Virginia Journal of Int'l Law, 2007

Note, "Modernizing the Critique of Per Diem Pain and Suffering Damages," Virginia Law Review, 2006

Professional Affiliations

Member, Edward Coke Appellate Inn of Court



Eric R. Nitz

Eric Nitz's practice focuses on white collar criminal investigations, complex civil litigation, patent litigation, and appellate litigation. He has represented senior governmental and corporate officials in investigations by the Department of Justice, various inspectors general, and Congress. He has briefed appeals before the Federal, Third, and D.C. Circuits. He has drafted dispositive and evidentiary motions in district courts across the country.

Prior to joining MoloLamken, Mr. Nitz served as a law clerk to the Honorable Joel M. Flaum of the United States Court of Appeals for the Seventh Circuit. He also worked as an associate in the Washington, D.C. office of Winston & Strawn LLP.

Before attending law school, Mr. Nitz was a high school science teacher and assistant track and field coach.

Criminal and Congressional Investigations

- Secret Service official in parallel investigations by Congress and Department of Homeland Security into handling of White House security breach
- Department of Homeland Security official in connection with investigation into Anti-Deficiency Act violation
- Employees of large software company in connection with accounting fraud and securities fraud investigations by DOJ and SEC
- Senior Department of Veterans Affairs official in connection with parallel investigations by Congress, DOJ, and the Department of Veterans Affairs inspector general
- Senior executive branch official in connection with gratuities and false statements investigation by DOJ
- Senior Department of Veterans Affairs official in connection with inspector general investigation into improper contracting practices
- Senior IRS official in connection with inspector general investigation regarding improper use of government information technology
- Former senior National Weather Service official in connection with congressional investigation into allegations of conflict-of-interest
- Senior ATF official in connection with Department of Justice inspector general investigation into disclosure of ATF documents
- Senior OPM official in connection with congressional investigation into data breach of the federal government
- High-ranking political operative in connection with Department of Justice investigation into allegations of wire fraud

Clerkships

Law clerk to the Honorable Joel M. Flaum, United States Court of Appeals for the Seventh Circuit

Education

Georgetown University Law Center, J.D., 2011, magna cum laude

Order of the Coif

The Georgetown Law Journal

Leahy Moot Court Competition, 2009, Finalist

National First Amendment Moot Court Competition, 2010, Quarterfinalist

Georgetown University, M.P.P., 2011

University of Notre Dame, M.Ed., 2007

University of Notre Dame, B.S., 2007, magna cum laude, biological sciences

Bar and Court

District of Columbia Virginia

United States Supreme Court

United States Courts of Appeals for the 7th, D.C., and Federal

United States District Courts for the District of Columbia and the Eastern District of Virginia



Eric R. Nitz

Complex Civil and Patent Litigation

- Large Middle Eastern aviation support company in multidistrict tort litigation
- Retired NFL football players objecting to class action settlement in multidistrict tort litigation
- IRS officials in constitutional tort action under Bivens involving alleged violations of the First Amendment and Fifth Amendment
- Small laundry detergent manufacturer and patent holder in multiple patent infringement lawsuits

Appellate Matters

- Cot'n Wash v. The Sun Products Corp., No. 14-1805 (Fed. Cir.) Drafted briefs on behalf of patent licensee in appeal from claim construction ruling
- In re NFL Players Concussion Litigation, No. 15-2304 (3d Cir.) Drafted briefs challenging final approval of class action settlement
- Linchpins of Liberty v. United States, No. 15-5013 (D.C. Cir.) Drafted briefs successfully defending dismissal of Bivens action brought against IRS official
- True the Vote v. IRS, No. 14-5316 (D.C. Cir.) Drafted briefs and presented oral argument successfully defending dismissal of Bivens action brought against IRS officials
- Helman v. Department of Veterans Affairs, No. 15-3086 (Fed. Cir.) Drafted briefs and presented oral argument challenging the constitutionality of the Veterans Access, Choice, and Accountability Act under the Appointments Clause
- Drone Technologies, Inc. v. Parrot S.A., No. 15-1892 (Fed. Cir.) Drafted briefs on behalf of defendant drone manufacturer in successful appeal from default judgment and damages trial for patent infringement

Publications

Navigating Overseas Discovery: Beware the Dangers of Foreign Law, Nat'l L.J., May 20, 2014 (with Robert K. Kry)

Note, Comparing Apples to Apples: A Federalism-Based Theory for the Use of Founding-Era State Constitutions To Interpret the Constitution, 100 Geo. L.J. 295 (2011)



Kaitlin R. O'Donnell

Kaitlin O'Donnell's practice focuses on complex civil litigation, white collar matters, and appellate litigation.

Prior to joining MoloLamken, Ms. O'Donnell served as a law clerk to the Honorable Juan R. Torruella of the United States Court of Appeals for the First Circuit. She also served as a law clerk to the Honorable Joseph F. Bianco of the United States District Court for the Eastern District of New York. Before her clerkships, Ms. O'Donnell was an associate with the Boston office of Choate Hall & Stewart LLP, worked with the Argentine law firm of M. & M. Bomchil, and served as a research assistant for Professor William W. Park, an international arbitrator. Ms. O'Donnell is fluent in Spanish and Portuguese.

Clerkships

Law clerk to the Honorable Juan R. Torruella, United States Court of Appeals for the First Circuit

Law clerk to the Honorable Joseph F. Bianco, United States District Court for the Eastern District of New York

Education

Boston University School of Law, J.D., 2009, cum laude

Edward F. Hennessey Distinguished Scholar

Managing Editor, Boston University International Law Journal

Second Place Best Oralist, Northeast Super Regional, Philip C. Jessup International Law Moot Court Competition

Frankfurt Investment Arbitration Moot Court Team

Georgetown University, M.S. 2006

Phi Beta Kappa

Georgetown University, B.A. 2005, magna cum laude

John Carroll Scholar

Portuguese Honor Society

Bar and Court Admissions

California

Massachusetts

New York

United States Court of Appeals for the 1st Circuit

United States District Courts for the District of Massachusetts, Southern District of New York, and Eastern District of New York



Rayiner Hashem

Rayiner Hashem's practice focuses on complex civil litigation and patent litigation.

Mr. Hashem has served as a law clerk to the Honorable Dolores K. Sloviter of the United States Court of Appeals for the Third Circuit. During law school, he also served as law clerk to former Commissioner Meredith A. Baker of the Federal Communications Commission.

Mr. Hashem holds a B.S. in Aerospace Engineering from the Georgia Institute of Technology. Before attending law school, he was a software engineer at a wireless technology R&D firm.

Clerkships

Law clerk to the Honorable Dolores K. Sloviter, United States Court of Appeals for the Third Circuit

Education

Northwestern University School of Law, J.D., 2012, magna cum laude

Associate Editor, Northwestern Journal of Technology and Intellectual Property

Georgia Institute of Technology, B.S., 2007

Bar and Court Admissions

New York Illinois

District of Columbia, admission pending (practicing under Rule 49(c)(8))

Summary of Issues Raised by Objectors Represented by Counsel

Table 1 below lists the issues raised by all objectors who were represented by counsel.¹ The issues that were addressed – at least in part – by the Final Settlement are identified in bold. Counsel for each objector or objector group are listed in Table 2.

Table 1: Summary of Issues

Issue/Argument	Objector(s) Who Raised the Issue/Argument
Insufficient \$75-Million BAP Cap	Faneca, Duerson
Failure To Credit NFL Europe Play	Faneca, Alexander, Heimburger, Jones, Slack
Failure To Compensate CTE After the Date of Preliminary Approval	<i>Faneca</i> , Alexander, Armstrong, Chesley, Duerson, Jones, Miller
Unfairness of Appeals Process	Faneca, Alexander, Armstrong, Duerson
Unavailability of Medical Records Due to Force Majeure Events	Williams
Burdensome Process for BAP Participation	Faneca, Armstrong
Burdensome Process for Filing Claims	<i>Faneca</i> , Alexander, Armstrong Heimburger, Komlo
Improper and Underinclusive Test Battery	Faneca, Armstrong, Duerson
75% Reductions for Stroke or non-NFL TBI	<i>Faneca</i> , Alexander, Armstrong, Barber, Duerson
Failure To Compensate Mood and Behavioral Symptoms of MTBI	<i>Faneca</i> , Armstrong, Barber, Duerson, Heimburger
Lack of Discovery and Lack of Evidentiary Support for the Settlement	Faneca, Alexander, Armstrong, Duerson
Inadequate Notice	<i>Faneca</i> , Alexander, Duerson, Heimburger, Miller, Morrison
Settlement Freezes Science in Place	Faneca, Alexander, Armstrong, Duerson
Clear-Sailing Provision and Excessive Attorneys' Fees	<i>Faneca</i> , Alexander, Armstrong, Heimburger, Miller
Award Reductions for Age and Career Length	Alexander, Armstrong, Barber, Duerson
Compensation Depends on Date of Diagnosis Instead of Date of Onset of Symptoms	Barber, Duerson, Owens
Education Fund Is a Cy Pres Award	Alexander, Armstrong, Heimburger
Underinclusive "Eligible Seasons" Definition	Slack, Stewart
Insufficient Maximum Monetary Awards	Alexander, Armstrong

Issue/Argument	Objector(s) Who Raised the Issue/Argument
Inadequate Opt-Out Procedure	Duerson, Utecht
Failure To Compensate Other MTBI-Related Diseases (<i>e.g.</i> Epilepsy or Multiple Sclerosis)	Duerson
Settlement Agreement Is Vague/Ambiguous	Alexander, Utecht
Failure To Account for Tolling of Statute of Limitations	Kinard, Williams
Class Lacks Typicality	Heimburger
Lack of Security for NFL's Payment Obligations	Utecht
Arbitrary Limit on Wrongful Death Damages	Duerson

¹ Objections were filed by counsel on behalf of: Liyongo Alexander *et al.* (Dkt. 6237), Ramon Armstrong *et al.* (Dkts. 6233, 6503), Michael Barber *et al.* (Dkt. 6226), Aloyouis Chesley *et al.* (Dkts. 6242, 6453), David Duerson *et al.* (Dkts. 6241, 6456), Craig and Dawn Heimburger (Dkt. 6230), James Jax (Dkt. 6236), Preston and Katherine Jones (Dkt. 6235), Frank Kinard (Dkt. 6219), Williams Komlo (Dkt. 6222), Cleo Miller *et al.* (Dkts. 6213, 6452, 6484), Susan Owens (Dkt. 6210), Reginald Slack and Matthew Rice (Dkt. 6223, 6431), Andrew Stewart (Dkt. 6175), Benjamin Utecht (Dkts. 6243, 6437), and Delano Williams (Dkts. 6221, 6433). Many objections incorporated the Faneca Objectors' filings by reference. *See* Dkt. 6237 at 4 (Alexander); Dkt. 6242 at 6 n.4 (Chesley); Dkt. 6241 at 34 (Duerson); Dkt. 6230 at 7-8 (Heimburger); Dkt. 6235 at 2 (Jones); 6213 at 1 (Miller). The table above lists only issues or arguments raised directly by each objector.

Table 2: Counsel for Objectors

Objector(s)	Law Firm(s)	Lead Attorney(s)
Liyongo Alexander et al.	Lubel Voyles LLP, Washington & Associates PLLC, McGinnis Featherston & Canady	Lance H. Lubel, Adam Voyles, Mickey Washington
Ramon Armstrong et al.	Coffman Law Firm	Richard L. Coffman
Michael Barber et al.	Edward Stone Law PC	Marc Davies
Aloyouis Chesley et al.	Zuckerman Spaeder LLP	Dwight P. Bostwick
David Duerson et al.	Corboy & Demetrio, PC	Thomas A. Demetrio, William Gibbs
Craig and Dawn Heimburger		Glenn Manochi, Gary Lightman
James Jax	Boesen Law, LLC	Christopher K. Gilbert
Preston and Katherine Jones	Capretz & Associates	Don K. Ledgard
Frank Kinard	Klamann Law Firm, Humphrey Farrington & McClain, The Popham Law Firm	Paul D. Anderson
Williams Komlo	The Shah Law Firm	Parag Shah
Cleo Miller et al.		John J. Pentz
Susan Owens	Edward Stone Law PC	Marc Davies
Reginald Slack and Matthew Rice	The Shah Law Firm	Parag Shah
Andrew Stewart	Rosenthal Lurie LLC	Michael Rosenthal
Benjamin Utecht	Guardian Law Group LLC	Scott D. Hillstrom
Delano Williams	The Shah Law Firm	Parag Shah



Jeffrey A. Lamken

Jeffrey Lamken, a nationally recognized appellate practitioner, has argued 22 cases before the U.S. Supreme Court and briefed dozens more on a wide range of topics, including administrative law, the First Amendment, antitrust, bankruptcy, civil rights, criminal procedure, energy, intellectual property, searches and seizures, separation of powers, and telecommunications. He has also handled matters in virtually all the federal courts of appeals and many state appellate courts. Mr. Lamken also develops, briefs, and argues critical motions in significant trial matters.

Before founding MoloLamken, Mr. Lamken headed Baker Botts' Supreme Court and Appellate Practice in Washington, D.C. Mr. Lamken has served as an Assistant to the Solicitor General in the U.S. Department of Justice, and was a partner in the Washington D.C. litigation boutique Kellogg Huber & Hansen.

Since 2005, Mr. Lamken has been recognized each year by Chambers & Partners Guide of America's Leading Business Lawyers (Nationwide) as a top appellate practitioner. The 2015 edition calls him a "really outstanding" practitioner, who is "incredibly knowledgeable and quick to understand issues," noting that "he is a fierce advocate" with a "very detailed" approach. The 2014 edition describes him as "a real leading player — a superstar lawyer." In the 2011 edition, peers lauded Mr. Lamken as "a wonderfully talented appellate lawyer" and "a joy to work with."

Selected Cases Argued Before the United States Supreme Court

- Hasty v. Abbasi, No. 15-1363 (to be argued Jan. 18, 2017) (whether a Bureau of Prisons associate warden may be liable for constitutional torts under Bivens for alleged violations of free exercise, due process, equal protection, and unreasonable searches)
- Bank Markazi v. Peterson, 136 S. Ct. 1310 (2016) (whether a statute that effectively directs a particular result in a single pending case violates the separation of powers)
- First Am. Fin. Corp. v. Edwards, cert. dismissed as improvidently granted, 132 S. Ct. 2536 (2012) (representing respondent) (whether Section 8 of the Real Estate Settlement Procedures Act of 1974 gives purchasers standing to sue title insurers under Article III, § 2 of the U.S. Constitution absent an allegation that the title insurers' statutory violations had any impact on the price or quality of the services)
- Mac's Shell Serv., Inc. v. Shell Oil Prods. Co. LLC, 559 U.S. 175 (2010) (whether a
 franchisee may recover for "constructive termination" or "constructive nonrenewal"
 under the Petroleum Marketing Practices Act when the franchisee continues to operate
 the franchise)
- Free Enter. Fund v. Pub. Co. Accounting Oversight Bd., 561 U.S. 477 (2010) (whether the Sarbanes-Oxley Act, which created the Public Company Accounting Oversight Board, violates separation of powers or the Appointments Clause of Constitution)
- NRG Power Mktg., LLC v. Maine Pub. Utils. Comm'n, 558 U.S. 165 (2010) (whether the Mobile-Sierra doctrine, which protects the integrity of wholesale energy contracts, applies when a rate set by contract is challenged by an entity that was not a party to the contract)
- BP Am. Prod. Co. v. Burton, 549 U.S. 84 (2006) (whether the limitations period in 28 U.S.C. § 2415(a) applies to federal agency orders requiring the payment of money claimed under a lease or other agreement)

Honors & Awards

Recognized as a leading appellate practitioner, Chambers USA Guide to America's Leading Business Lawyers, 2005-2015 (appellate)

Listed in The Best Lawyers in America, 2006-2015

Recognized as a "Washington D.C. Super Lawyer" by Law & Politics, 2007-2015

Named to the "Fab Fifty" list of 50 most promising young litigators under 45 by American Lawyer, 2007

Washingtonian Top Lawyers 2007, 2009, 2011-2014

Named to the LawDragon 500 Leading Lawyers in America

Clerkships

Law clerk to the Honorable Sandra Day O'Connor, United States Supreme Court

Law clerk to the Honorable Alex Kozinski, United States Court of Appeals for the Ninth Circuit

Education

Stanford Law School, J.D., 1990

Nathan Abbott Scholar Order of the Coif

Senior Editor, Stanford Law Review

Haverford College, B.A., 1986, magna cum laude, political science

Dep't Prize in Mathematics Phi Beta Kappa

Kurzman Prize

JA6382



Jeffrey A. Lamken

Selected Party Briefs in the United States Supreme Court

- Mohamad v. Palestinian Auth., 132 S. Ct. 1702 (2012) (whether the term "individual" in the Torture Victim Protection Act limits suits to natural persons)
- Erica P. John Fund, Inc. v. Halliburton Co., 131 S. Ct. 2179 (2011) (whether private securities fraud plaintiffs must prove loss causation to obtain class certification)
- Jones v. Harris Assocs., 559 U.S. 335 (2010) (establishing the standard for determining whether an investment adviser's fees violate its statutory fiduciary duty to the fund it manages)

Selected Amicus Briefs in the United States Supreme Court

- Comptroller v. Wynne, 135 S. Ct. 1787 (2015) (brief of amicus curiae U.S. Chamber of Commerce addressing whether a State can tax its residents on out-of-state income without providing a credit for out-of-state taxes)
- Am. Broad. Cos. v. Aereo, Inc., 134 S. Ct. 2498 (2014) (brief of amicus curiae Cablevision Systems Corp. in a copyright challenge to Aereo's Internet television retransmission service)
- Nautilus, Inc. v. Biosig Instruments, Inc., 134 S. Ct. 2120 (2014) (brief of amicus curiae Yahoo! Inc. and other high-tech companies addressing the degree of particularity required for patent claims)
- Alice Corp. Party Ltd. v. CLS Bank Int'l, 134 S. Ct. 2347 (2014) (brief of amici curiae Microsoft Corporation, Adobe Systems Inc., and Hewlett-Packard Company addressing the patent eligibility of computer-implemented inventions under § 101 of the Patent Act)
- Octane Fitness, LLC v. Icon Health & Fitness, Inc., 134 S. Ct. 1749 (2014), & Highmark Inc. v. Allcare Health Management Systems Inc., 134 S. Ct. 1744 (2014) (brief of amici curiae Yahoo! Inc. and other high-tech companies addressing the "exceptional case" standard for fee-shifting under § 285 of the Patent Act)
- EPA v. EME Homer City Generation, LP, 133 S. Ct. 2857 (2013) (brief of amicus curiae Chamber of Commerce in a suit challenging the EPA's rules implementing the interstate pollution restrictions of the Clean Air Act)
- Ass'n for Molecular Pathology v. Myriad Genetics, 133 S. Ct. 2107 (2013) (brief of amicus curiae The Coalition for 21st Century Medicine addressing the patent eligibility of isolated human DNA under § 101 of the Patent Act)
- Genesis HealthCare Corp. v. Symczyk, 133 S. Ct. 1523 (2012) (brief of amicus curiae DRI The Voice of the Defense Bar addressing whether a case becomes moot, and thus beyond the judicial power of Article III, when the lone plaintiff is offered a payment that would satisfy all of the plaintiff's claims)

Bar and Court Admissions

District of Columbia California

United States Supreme Court

United States Courts of Appeals for the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, D.C., and Federal Circuits

United States District Courts for the District of Columbia, the Northern District of California, and the Eastern District of Texas

Professional Affiliations

American Academy of Appellate Lawyers Member, Edward Coke Appellate Inn of Court

Member, American Bar Association Litigation Section



Jeffrey A. Lamken

Selected Amicus Briefs in the United States Supreme Court (continued)

- Wal-Mart Stores, Inc. v. Dukes, 131 S. Ct. 2541 (2011) (brief of amici curiae Altria Group and other leading U.S. companies addressing the need for significant proof of a general policy of discrimination to certify an employment-discrimination class action)
- Altria Grp. v. Good, 555 U.S. 70 (2008) (brief of amicus curiae Chamber of Commerce addressing whether federal law preempts state-law fraud challenges to FTC-authorized statements in cigarette advertising)
- Morgan Stanley Capital Grp. v. Pub. Util. Dist. No. 1 of Snohomish County, 554 U.S.
 527 (2008) (brief of amici curiae economics professors addressing the standard for abrogation of long-term energy contracts under Mobile-Sierra doctrine)
- Weyerhaeuser Co. v. Ross-Simmons Hardwood Lumber Co., 549 U.S. 312 (2007) (brief
 of amici curiae timberland owners and managers addressing whether predatory-bidding
 antitrust claims require proof of recoupment)

Representative Matters in the Courts of Appeals

- Drone Techs., Inc. v. Parrot S.A. and Parrot Inc., 838 F.3d 1283 (Fed. Cir. 2016) (whether the district court abused its discretion in entering a default judgment on liability as a discovery sanction)
- McRo, Inc. v. Bandai Namco Games Am., Inc., 837 F.3d 1299 (Fed. Cir. 2016) (whether a patent for automatically animating the lip synchronization and facial expressions of animated characters was directed at an unpatentable abstract idea)
- Rubin v. Islamic Rep. of Iran, 830 F.3d 470 (7th Cir. 2016) (whether 28 U.S.C. §1610(g) provides a freestanding attachment immunity exception; whether 28 U.S.C. §1610(a) applies to a foreign sovereign's property located in the United States only when the property is used by the foreign state itself)
- Hourani, et al. v. Mirtchev, et al., 796 F.3d 1 (D.C. Cir. 2015) (whether the Racketeering Influenced and Corrupt Organizations Act extends to alleged conspiracy to commit extortion abroad)
- Versata Dev. Grp., Inc. v. SAP Am., Inc., 793 F.3d 1306 (Fed. Cir. 2015) (whether the Patent and Trademark Office properly defined covered business method patents subject to transitional review proceedings; whether claim preclusion applies in such proceedings; and whether patent for a computerized pricing engine is directed to patent-eligible subject matter)
- Turkmen v. Hasty, 789 F.3d 218 (2d Cir. 2015) (whether a Bureau of Prisons associate
 warden may be liable for constitutional torts under Bivens for alleged violations of free
 exercise, due process, equal protection, and unreasonable searches)
- Soverain Software LLC v. Victoria's Secret, 778 F.3d 1311 (Fed. Cir. 2015) (whether appellate decision sua sponte holding patent claims invalid has issue-preclusive effect in later litigation)
- United States ex rel. Nathan v. Takeda Pharm. N. Am., Inc., 707 F.3d 451 (4th Cir. 2013) (whether pharmaceutical company's promotion of a drug for off-label purposes caused false claims to be presented to the government in violation of the False Claims Act), cert. denied, 134 S. Ct. 1759 (2014)



Jeffrey A. Lamken

Representative Matters in the Courts of Appeals (continued)

- Rambus Inc. v. Rea, 527 F. App'x 902 (Fed. Cir. 2013) (whether substantial evidence supports Patent and Trademark Office finding that 25 patent claims were anticipated by an earlier patent)
- Beer v. United States, 696 F.3d 1174 (Fed. Cir. 2012) (en banc) (brief of amicus curiae Federal Judges Association addressing cost-of-living adjustments for Article III judges), cert. denied, 133 S. Ct. 1997 (2013)
- United States v. Danielczyk, 683 F.3d 611 (4th Cir. 2012) (whether, following Citizens United, the Federal Election Campaign Act's categorical ban on corporate contributions to candidates violates the First Amendment), cert. denied, 133 S. Ct. 1459 (2013)
- Therasense, Inc. v. Becton, Dickinson & Co. and Bayer Healthcare LLC, 649 F.3d 1276 (Fed. Cir. 2011) (en banc) (whether the elements of inequitable conduct should be made more exacting with respect to intent, materiality, and causation, and by excluding a "balancing" approach)
- *Tivo Inc. v. Echostar Corp.*, 646 F.3d 869 (Fed. Cir. 2011) (en banc) (brief of amicus curiae Association for Competitive Technology addressing the standard for judicial enforcement of patent injunctions)
- Arar v. Ashcroft, 585 F.3d 559 (2d Cir. 2009) (en banc) (whether Bivens and the Torture Victim Prevention Act allow a foreign national claiming to have been tortured by foreign officials abroad to sue U.S. officials for alleged complicity), cert. denied, 560 U.S. 978 (2010)
- Cartoon Network LP v. CSC Holdings, Inc., 536 F.3d 121 (2d Cir. 2008) (whether cable company's remote-storage DVR infringes appellees' copyrights by allowing customers to record programming and store their recordings in a remote location), cert. denied, 129 S. Ct. 2890 (2009)
- AES Sparrow Point LNG, LLC v. Smith, 527 F.3d 120 (4th Cir. 2008) (whether county law making it illegal to build a liquefied natural gas terminal in a particular location is preempted by the Natural Gas Act), cert. denied, 555 U.S. 888 (2008)
- Kirch v. Liberty Media Corp., 449 F.3d 388 (2d Cir. 2006) (whether statements about a third-party can support a defamation claim and whether plaintiff proved claims of tortious interference with contract and prospective economic advantage)

	MoloLamken LLP			
Reporting Period:	September 3, 2013 - Nove	Jovember 30, 2016		
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Timekeeper	Professional Level	Total Hours	Rate	Total Billing Amount
Molo, Steven	PT	723.6	\$1,250	\$904,500.00
Lamken, Jeffrey	Ы	0.6	\$1,000	00.000,6\$
Wiegand, Tom	PT	1,253.8	006\$	\$1,128,420.00
Kry, Robert	PT	7.6	006\$	\$6,840.00
Pattillo, Michael	PT	16.7	\$825	\$13,777.50
DeVooght, Andrew	PT	15.6	\$825	\$12,870.00
Totaro, Martin	PT	623.6	\$825	\$514,470.00
Quarmby, Ben	Ы	78.2	\$825	\$64,515.00
Weiner, Justin	4	94.4	\$625	\$59,000.00
Bernie, Andrew	4	11.5	\$625	\$7,187.50
Ellis, Justin	4	7.4	\$625	\$4,625.00
Melendez, Joel	⋖	2.0	\$625	\$1,250.00
Nitz, Eric	⋖	1,089.3	\$495	\$539,203.50
O'Donnell, Kaitlin	4	590.1	\$495	\$292,099.50
Hashem, Rayiner	4	486.5	\$495	\$240,817.50
Shah, Hassan	⋖	24.5	\$495	\$12,127.50
Deininger, Emily	⋖	17.2	\$495	\$8,514.00
Walker, Lucas	⋖	12.1	\$495	\$5,989.50
Michaeli, Daniel	⋖	6.1	\$495	\$3,019.50
Barta, James	⋖	4.7	\$495	\$2,326.50
Weinstein, Lauren	4	4.5	\$495	\$2,227.50
Klein, Jeff	⋖	211.9	\$425	\$90,057.50
DeMaio, Stephen	4	0.66	\$425	\$42,075.00
Sivakumaran, Gajan	⋖	58.7	\$425	\$24,947.50
Swanson, Amanda	PR	154.1	\$195	\$30,049.50
Atkins, Sarah	PR	141.1	\$195	\$27,514.50
Havriliak, Anya	PR	119.6	\$195	\$23,322.00
Caros, Nicholas	PR	37.9	\$195	\$7,390.50
Graylin, Jack	PR	30.0	\$195	\$5,850.00
Molo, Julia	PR	16.0	\$195	\$3,120.00
Hine, Nicholas	PR	14.6	\$195	\$2,847.00
Chung, Tammy	PR	13.9	\$195	\$2,710.50
Che, Erica	PR	11.7	\$195	\$2,281.50
Smith, Michael	PR	6.3	\$195	\$1,228.50

At MoloLamken, attorneys at the \$425/hour billing rate are known as "discovery counsel." Discovery counsel are full-time lawyers, employed by the firm, whose duties focus primarily on fact research as well as discovery and evidentiary issues.

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Timekeeper	Professional Level	Total Hours	Rate	Total Billing Amount
Figuerdo, Juan Carlos	PR	5.9	\$195	\$1,150.50
Collins, Nicholas	PR	1.6	\$195	\$312.00
Lew, Katherine	PR	1.5	\$195	\$292.50
Makama, Mfundi	PR	1.5	\$195	\$292.50
Kalpin, Christine	PR	0.5	\$195	\$97.50
Total:		6,004.2		\$4,098,319.00

Cases 48-2012md-D0608nemit: 0003011381065920-2Pagite: 0143/11/Date Faited 508/09/2019

Summary of Time and Fees by Task

	MoloLamken LLP
Reporting Period:	September 3, 2013 - November 30, 2016

Task Category	Total Hours	Total Billing Amount
(1) Discovery	0	\$0.00
(2) PSC Calls/Meetings	0	\$0.00
(3) Lead Counsel/PSC Duties	0	\$0.00
(4) Administrative	0	\$0.00
(5) MDL Status Conference	0	\$0.00
(6) Court Appearance	65.5	\$44,857.50
(7) Research	1041.3	\$583,905.50
(8) Litigation Strategy & Analysis	774	\$617,752.00
(9) Pleadings/Briefs/Pre-trial Motions/Legal	2368.1	\$1,555,393.50
(10) Experts/Consultants	305.2	\$267,247.50
(11) Settlement	112.3	\$106,926.00
(12) Appeal	1335.3	\$921,749.50
(13) Miscellaneous	2.5	\$487.50
Total:	6004.2	\$4,098,319.00

Summary of Expenses

	MoloLamken LLP
Reporting Period:	September 3, 2013 - November 30, 2016

Type of Expense	Total Expenses
(1) Fees	\$920.32
(2) Federal Express/Local Courier, etc.	\$0.00
(3) Postage Charges	\$0.00
(4) Fascimile Charges	\$0.00
(5) Long Distance/Conference Calls	\$0.00
(6) In-House Document Reproduction	\$0.00
(7) Outside Document Reproduction	\$8,920.78
(8) Lodging/Hotels	\$6,649.85
(9) Dining/Meals	\$271.11
(10) Mileage	\$121.00
(11) Air Travel	\$2,868.90
(12) Ground Transportation	\$6,968.26
(13) Legal Research/Lexis/Westlaw	\$0.00
(14) Miscellaneous (litigation support, graphics,	
articles/books, supplies for hearing)	\$21,263.14
Total:	\$47,998.52

Exhibit 8

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

V.

National Football League and NFL Properties, LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB MDL No. 2323

Civil Action No. 2:14-cv-00029-AB

DECLARATION OF WILLIAM T. HANGLEY IN SUPPORT OF PETITION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES

I, William T. Hangley, declare, pursuant to 28 U.S.C. § 1746:

1. I submit this declaration in support of the Faneca Objectors' Petition for an Award of Attorneys' Fees and Expenses in connection with services rendered to the benefit of the settlement class in the above-captioned case. I have personal knowledge of the matters set forth in this Declaration, and if called upon, I would testify as follows:

¹ The Faneca Objectors – Alan Faneca, Roderick Cartwright, Jeff Rohrer, and Sean Considine – were previously known to this Court as the Morey Objectors. At that time, the objector group also included Sean Morey, Ben Hamilton, and Robert Royal. Those three objectors have since opted out of the settlement class.

I. FIRM BACKGROUND AND QUALIFICATIONS

- 2. I founded Hangley Aronchick Segal Pudlin & Schiller with several other attorneys in 1994. Hangley Aronchick is a 50-lawyer, full-service law firm with offices in Pennsylvania and New Jersey, and an international client base. We are well known for our handling of cases likely to go to trial. We have represented some of the country's largest corporations, the Commonwealth of Pennsylvania, the City of Philadelphia, major universities and healthcare complexes, and the Pennsylvania Bar Association.
- 3. Our firm and its lawyers have been recognized in legal listings and publications such as the *Legal Intelligencer*, *Best Lawyers in America*, *Vault.com*, *Chambers & Partners*, *U.S. News and World Report*, and *SuperLawyers*, as well as by the Philadelphia Bar Foundation. The *National Law Journal* recently named our firm to its "Midsize Hot List," and *Benchmark Litigation* named our firm as "Pennsylvania Law Firm of the Year." The legal publication *Chambers USA* has named our litigation, bankruptcy, insurance, and real estate practices as among the best in Pennsylvania. Additional information about our firm can be found at http://www.hangley.com.
- 4. I am a trial lawyer with fifty years of experience. I have tried First Amendment, antitrust, patent, estates, real estate, franchise, construction, employment, unfair competition, securities, civil rights, attorney malpractice, capital punishment, and general contract and business tort cases. I am a Fellow and past Third Circuit Regent of the American College of Trial Lawyers, and the publication *Benchmark Litigation* has named me one of the "Top 100" trial lawyers in the United States. A copy of my firm biography is attached as Exhibit A.
- 5. Working with me on this matter was Michele D. Hangley, a partner at the firm. She has been recognized as one of the "Top 250 Women in Litigation" and a "Local Litigation"

Star" by *Benchmark Litigation*, as well as a top attorney in Pennsylvania by the publication *SuperLawyers*. A copy of her firm biography is attached as Exhibit B.

II. HANGLEY ARONCHICK'S EFFORTS ON BEHALF OF THE SETTLEMENT CLASS

- 6. On May 5, 2014, I entered my appearance on behalf of the Faneca Objectors in this matter. Dkt. 6019. Michele Hangley entered her appearance on May 19, 2014. Dkt. 6045. Thereafter, we worked closely with co-counsel, MoloLamken LLP, to develop strategy, analyze the settling parties' submissions, and prepare the submissions of the Faneca Objectors in this Court. We participated in the preparation and filing of the Faneca Objectors' motion to intervene and their objection and opposition to preliminary approval of the Revised Settlement. *See* Molo Decl. ¶14-15. After this Court granted preliminary approval of the Revised Settlement on July 7, 2014, we worked with MoloLamken to prepare and file the Fancea Objectors' objection to final approval, and their supplemental brief in support of the objection. *See id.* ¶19-22, 28. We also assisted MoloLamken in their efforts to obtain discovery by helping to prepare and file the Faneca Objectors' discovery motions. *See id.* ¶124, 31.
- 7. On November 4, 2014, the Court appointed Steven Molo of MoloLamken and myself as liaison counsel for the objector groups and asked us to coordinate the presentation of objections at the November 19, 2014 fairness hearing. Dkt. 6344. I worked with Mr. Molo to communicate with the various groups of represented objectors and achieve an orderly and effective presentation of issues without duplication. *See* Molo Decl. ¶25.
- 8. Hangley Aronchick worked with MoloLamken to develop strategy for the Court's November 19, 2014 fairness hearing, and advised Mr. Molo in connection with oral argument at the fairness hearing. *See* Molo Decl. ¶27. I attended the November 19, 2014 hearing.

- 9. In addition to assisting with proceedings in this Court, Hangley Aronchick participated in the Faneca Objectors' efforts in the Third Circuit. We worked with MoloLamken to develop a strategy for the Faneca Objectors' Rule 23(f) petition seeking review of the order granting preliminary approval to the Revised Settlement and their appeal of the order granting final approval to the Final Settlement. *See* Molo Decl. ¶18, 38-40. We advised Mr. Molo in connection with oral argument in the Third Circuit on both the Rule 23(f) petition and the appeal. Michele Hangley attended the argument on the Rule 23(f) petition, and I attended the argument on the appeal.
- 10. Hangley Aronchick also consulted with MoloLamken on their negotiations with the NFL regarding possible enhancements to the Final Settlement.
- 11. On April 18, 2016, the Third Circuit affirmed this Court's order granting final approval to the Final Settlement. *See In re: Nat'l Football League Players' Concussion Injury Litig.*, 821 F.3d 410 (2016). We consulted with MoloLamken on the decision of whether to petition for Supreme Court review of the Third Circuit's ruling. *See* Molo Decl. ¶43.

III. HANGLEY ARONCHICK'S TOTAL FEES AND EXPENSES

12. Over the course of two-and-a-half years, Hangley Aronchick devoted a total of 281.8 hours to representing the Faneca Objectors. At the firm's current hourly billing rates, that time represents \$175,058.50 in fees. Exhibit C is a chart summarizing the total number of hours and fees that Hangley Aronchick has devoted to this litigation. The hourly rates reflected are current market rates that other clients have agreed to pay Hangley Aronchick for legal representation. Based upon my experience, these rates are consistent with those charged by law firms engaged in the type of complex, high-stakes work that our firm does. Exhibit D is a chart summarizing the total number of hours by litigation task.

- 13. We also incurred \$3,829 in out-of-pocket expenses. Those costs and expenses are broken down by category in the chart attached as Exhibit E. Those costs were incurred on behalf of the class and are listed as actual costs. The expenses are reflected in Hangley Aronchick's books and records, and were prepared from receipts, check records, and other source materials. They represent an accurate recording of the expenses that Hangley Aronchick actually incurred.
- 14. I have reviewed the time and expenses reported by my firm in this case that are included in this declaration, and I affirm that they are true and accurate. In my experience, these fees and expenses are reasonable.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: January 9, 2017

In Philadelphia, Pennsylvania

William T. Hangley

Exhibit A





William T. Hangley

Hangley Aronchick Segal Pudlin & Schiller One Logan Square 27th Floor Philadelphia, PA 19103-6933

E-mail: whangley@hangley.com

Phone: 215.4967001 Fax: 215.568.0300

Areas of Practice

Litigation

Education

University of Pennsylvania Law School, Philadelphia, Pennsylvania, 1966, LLB, cum laude, Order of the Coif, University of Pennsylvania Law ReviewComment Editor

State University of New York College, Fredonia, New York, 1963, BS, Music

Bar Admissions

Pennsylvania

United States Court of Appeals Federal Circuit

United States Court of Appeals for the Third Circuit

United States District Court for the Eastern District of Pennsylvania **William T. Hangley** is one of America's most highly decorated trial lawyers and counselors. His practice involves representations of both plaintiffs and defendants.

He has tried (not just litigated) First Amendment, antitrust, patent, estates, real estate, franchise, construction, employment, unfair competition, securities, civil rights, attorney malpractice, capital punishment, and general contract and business tort cases.

Benchmark Litigation regularly names Bill one of the top 100 lawyers in the United States; Best Lawyers has named him Lawyer of the Year for "Bet the Company" litigation. Chambers USA has never left him off its list of "Band One" Commercial Trial Lawyers. He has several times been a top-three vote getter in the annual Pennsylvania Super Lawyers rankings, and was recently the on the "cover" of its annual magazine. A longtime Fellow of the American College of Trial Lawyers, he has served as the College's Regent for Pennsylvania, New Jersey, and Delaware. He recently completed a sixyear tour as a member of the United States Judicial Conference Advisory Committee on Evidence Rules (by appointment of Chief Justice John Roberts), and is currently the Liaison of the ABA Section of Litigation to the Advisory Committee on Civil Rules. He has been a member and then Chair of the Pennsylvania IOLTA Board (by appointment of Pennsylvania Chief Justice Ronald Castille), and served as Chair of the Third Circuit Lawyers Advisory Committee (by appointment of Third Circuit Chief Judge Anthony Scirica). He has been Co-Chair of the ABA Section of Litigation's Federal Practice Task Force and a member of the Task Force on Discovery and Civil Justice, a joint project of the American College and the Institute for the Advancement of the American Legal System, which works to

United States District Court for the Middle District of Pennsylvania

United States District Court for the District of Maryland

address the increasing inefficiency and expense of the civil justice system and the disappearance of the civil jury trial.

During the '90s, Bill presided over jury trials as a Judge Pro Tem of the Philadelphia Court of Common Pleas, helping the Court address its then-critical case backlog. He currently serves as a Special Discovery Master for district judges in two ongoing complex civil litigations.

Honors and Awards

- Beginning with its first edition, Chambers USA: America's Leading Lawyers for Business has named Bill as one of five or six Band One Commercial Trial Lawyers in Pennsylvania.
- He has been consistently recognized by *The Best Lawyers in America* as one of a handful of "Bet Your Company" Pennsylvania trial lawyers, and was recognized as the 2010 Philadelphia Lawyer of the Year for Bet-the-Company Litigation.
- Bill is consistently named a Local Litigation Star by Benchmark: The Definitive Guide to America's Leading Litigation Firms and Attorneys
- Bill has been identified every year in Pennsylvania *Super Lawyers* magazine as one of the top lawyers in Pennsylvania, and he has been ranked a Top 10 lawyer in Pennsylvania numerous times. He was the subject of the cover story in the 2012 *Super Lawyers* Magazine.
- He is also named annually in *Who's Who Legal* and the *International Who's Who of Business Lawyers*, as one of Pennsylvania's top five business trial lawyers.
- American College of Trial Lawyers, Fellow, 1987 Present
- American Bar Foundation, Fellow
- Salzburg Seminar in American Studies, Law, University of Pennsylvania Fellow, 1970
- University of Pennsylvania Law Review, Comment Editor

Publications

- Opinions Hidden, Citations Forbidden: Report And Recommendations Of the American College of Trial Lawyers On The Publication And Citation Of Nonbinding Federal Circuit Court Opinions, 208 F.R.D. 645 (2002)
- "Teaching Through Experts: Changing the Obscure to the Obvious," *Litigation*, Spring, 2001
- "Direct and the Director: Writing, Staging and Telling The Story," *Litigation*, Fall, 1998
- "The Fourth Estate and the Second Front: Winning and Losing in the Press," *Litigation*, Spring, 1997
- "The Strike Zone, the Trial Judge and Other Moving Targets," California Litigation (Cal. Bar Ass'n. Section of Litigation), Spring, 1995

Exhibit B





Michele D. Hangley

Hangley Aronchick Segal Pudlin & Schiller One Logan Square 27th Floor Philadelphia, PA 19103-6933

E-mail: mhangley@hangley.com

Phone: 215.496.7061 Fax: 215.568.0300

Areas of Practice

Litigation

Education

University of Pennsylvania Law School, Philadelphia, Pennsylvania, 1998, JD, magna cum laude Order of the Coif

Brown University, Providence, Rhode Island, 1988, AB

Clerkship

Honorable Phyllis A. Kravitch, United States Court of Appeals for the Eleventh Circuit 1998 – 1999

Bar Admissions

Pennsylvania, 1998

New Jersey, 2000

United States Court of Appeals for the Federal Circuit, 2006 **Michele Hangley** prepares and tries commercial and legal malpractice cases in state and federal courts across the country, appearing most frequently in the U.S. District Court for the Eastern District of Pennsylvania and the Philadelphia County Court of Common Pleas.

Michele's commercial litigation practice covers a broad range of areas, including business tort and breach of contract claims and intellectual property disputes. Her clients include technology, pharmaceutical, manufacturing, and financial services companies and their principals. She also defends attorneys and law firms in legal malpractice cases arising out of complex lawsuits and transactions. Michele is a creative, but practical, litigator, who works closely with her clients to understand their goals and pursues those goals relentlessly.

Michele is frequently called upon to lecture on matters involving civil procedure and attorney ethics. She recently co-chaired a seventeen-city series of programs on the 2015 Amendments to the Federal Rules of Civil Procedure; she is a Hearing Committee Member for the Supreme Court of Pennsylvania's Disciplinary Board; and she serves on the American Bar Association Section of Litigation's Federal Practice Task Force.

Michele has been recognized as one of the country's Top 250 Women in Litigation and as a Local Litigation Star by *Benchmark: The Definitive Guide to America's Leading Litigation Firms and Attorneys*, as one of Pennsylvania's "Most Powerful and Influential Women" by the Pennsylvania Diversity Council, and as a top attorney by Pennsylvania Super Lawyers magazine. She is a 1998 *magna cum laude* graduate of the University of Pennsylvania Law School, where she was an Articles Editor of the Law Review. She received an A.B. in Political Science from Brown

United States Court of Appeals for the Third Circuit, 2005

United States District Court for the Eastern District of Pennsylvania, 1999

United States District Court for the Middle District of Pennsylvania, 2013

United States District Court District of New Jersey, 2004 University. From 1998 to 1999, Michele served as a law clerk to the Honorable Phyllis A. Kravitch of the United States Court of Appeals for the Eleventh Circuit.

Honors and Awards

- Named one of the Top 250 Women in *Litigation by Benchmark:* The Definitive Guide to America's Leading Litigation Firms and Attorneys (2014 2016)
- Named a Local Litigation Star by *Benchmark: The Definitive Guide to America's Leading Litigation Firms and Attorneys* (2011 2016)
- Named by Pennsylvania Super Lawyers magazine as one of the state's top attorneys (2011 - 2016) as the result of a statewide survey of lawyers
- National Diversity Council Award, "Most Powerful and Influential Women of Pennsylvania" (2015)
- Fellow of American Bar Foundation (2014 Present)
- Academy of Advocacy at Temple University School of Law, Fellow
- University of Pennsylvania Law Review, Associate Editor and Articles Editor

Professional Associations and Memberships

- American Bar Association Section of Litigation
 - National Co-Chair, Federal Rules Amendments Roadshow,
 2015 Present
 - o Member, Federal Practice Task Force, 2012 Present
 - o Co-Chair, Communications Committee, 2016 Present
 - Regional Co-Chair, Judicial Intern Opportunity Program, 2011
 2014
 - o Co-Chair, Ethics and Professionalism Committee, 2008 2011
 - Section Liaison to ABA Task Force on Legal Process Outsourcing, 2009 – 2011
- Hearing Committee Member, Disciplinary Board of the Supreme Court of Pennsylvania, 2012 Present
- American Bar Foundation, Fellow, 2014 Present
- Barrister, University of Pennsylvania Law School American Inn of Court, 2012 – 2014
- Philadelphia Bar Association
- Third Circuit Bar Association
- Editorial Board, *The Legal Intelligencer*, 2003 2012

Publications

• "Fee Disgorgement in Attorney Breach-of-Fiduciary-Duty Cases," The American Bar Association's *Commercial & Business Litigation*, Vol. 9, No. 4, Summer 2008

Teaching/Lecturing

- Panelist, "2015 FRCP Amendments Moving Forward," Federation of Defense & Corporate Counsel 13th Annual Corporate Counsel Symposium, September 2016 (upcoming)
- Panelist, "Taking Rule 30(b)(6) Corporate Depositions," American Bar Association Section of Litigation Webinar, May 2016
- Panelist, "Taking Rule 30(b)(6) Corporate Depositions: Should the 45-Year-Old Rule Be Changed?" American Bar Association Section of Litigation Section Annual Conference, April 2016
- Panelist, "Ethics and Professional Responsibility," Pennsylvania Bar Institute's Fourth Annual Best Practices in Pretrial Litigation in the Federal Courts, March 2016
- "The Ethics Quiz Show," American Bar Association National Conference for the Minority Lawyer, 2009
- "When Trouble Walks In the Door: Ethical Dilemmas in Accepting an Engagement and Working Up a Case," Annual Conference of the American Bar Association Section of Litigation, 2009
- "When Limited Liability Fails: Piercing the Corporate Veil," Philadelphia Bar Association's Business Litigation and Business Organizations Committees, 2007
- "Piercing the Corporate Veil," Pennsylvania Bar Institute, 2006

Community

- Nationalities Service Center
 - o First Vice Chair and Board Member, 2012 Present
 - o Chair, Development Committee, 2013 2015
- University of Pennsylvania Law School, Class of 1998 Class Agent,
 2014 Present
- LEADERSHIP Philadelphia, Class of 2014
- Choral Arts Society of Philadelphia, Member, 2004 2009

Representative Matters

- Represent a national cable and entertainment company in patent litigation involving claimed damages in the hundreds of millions of dollars.
- Secured dismissal of company founder's breach of contract claim against specialty pharmaceutical company. *Babul v. Relmada Therapeutics, Inc.*, 2016 WL 233698 (E.D. Pa. Jan. 20, 2016).
- Successfully defended several prominent law firms and attorneys against legal malpractice suits in Pennsylvania state courts, including winning defense jury verdict in Montgomery County Court of Common Pleas after lengthy trial.
- Represented specialty pharmaceutical company in \$200+ million contract dispute with large international pharmaceutical company in Philadelphia's Commerce Court; case ended with successful mediation and settlement.

- On behalf of newspaper and journalist defendants in libel case, defeated effort of plaintiff, a powerful Philadelphia union leader, to have U.S. District Court override state court's treatment of document from federal case file. *U.S. v. Dougherty*, 2014 WL 3676002 (E.D. Pa. June 23, 2014), aff'd, 627 Fed. Appx. 97 (3d Cir.), cert. denied, 130 S.Ct. 110 (2015).
- Obtained reversal of holding of the Environmental Hearing Board that municipality was not entitled to attorneys' fees under the Pennsylvania Clean Streams Law. *Chalfont-New Britain Joint Sewage Authority v. Department of Environmental Protection*, 24 A.3d 470, Pennsylvania Commonwealth Court, August 8, 2011.
- Represented owner of office building that had been condemned and demolished to make way for the expanded Pennsylvania Convention Center. After ten-day hearing before the Philadelphia Board of View, won award in the tens of millions of dollars that more than doubled the amount that the Commonwealth had offered the property owner to compensate for the condemnation.

Exhibit C

Summary of Time and Fees

	Hangley Aronchick Segal Pudlin & Schiller	gal Pudlin & Schiller		
Reporting Period:	April 7, 2014 - September 2, 2016	lber 2, 2016		
Timekeeper	Professional Level	Total Hours	Rate	Total Billing Amount
Hangley, William T.	PT	154.1	\$855	\$127,132.50
Hangley, Michele D.	PT	95.3	\$440	\$41,932.00
Hrouda, Robert	PR	32.4	\$185	\$5,994.00
Total		281 8		\$175 D58 5D

Exhibit D

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Summary of Time and Fees by Task

	Hangley Aronchick Segal Pudlin & Schiller
Reporting Period:	April 7, 2014 - September 2, 2016

Task Category	Total Hours	Total Billing Amount
(1) Discovery	0	\$0.00
(2) PSC Calls/Meetings	0.8	\$660.00
(3) Lead Counsel/PSC Duties	0	\$0.00
(4) Administrative	19.2	\$3,807.00
(5) MDL Status Conference	0	\$0.00
(6) Court Appearance	13	\$9,955.00
(7) Research	13.8	\$5,613.00
(8) Litigation Strategy & Analysis	99.1	\$70,427.00
(9) Pleadings/Briefs/Pre-trial Motions/Legal	61.3	\$35,726.00
(10) Experts/Consultants	0	\$0.00
(11) Settlement	2.4	\$1,980.00
(12) Appeal	72.2	\$46,890.50
(13) Miscellaneous	0	\$0.00
Total:	281.8	\$175,058.50

Exhibit E

Summary of Expenses

	Hangley Aronchick Segal Pudlin & Schiller
Reporting Period:	April 7, 2014 - September 2, 2016

Type of Expense	Total Expenses
(1) Fees	\$530.00
(2) Federal Express/Local Courier, etc.	\$658.18
(3) Postage Charges	\$0.00
(4) Fascimile Charges	\$0.00
(5) Long Distance/Conference Calls	\$0.00
(6) In-House Document Reproduction	\$1,878.00
(7) Outside Document Reproduction	\$0.00
(8) Lodging/Hotels	\$0.00
(9) Dining/Meals	\$251.36
(10) Mileage	\$0.00
(11) Air Travel	\$0.00
(12) Ground Transportation	\$56.07
(13) Legal Research/Lexis/Westlaw	\$85.90
(14) Miscellaneous (secretarial overtime)	\$369.49
Total:	\$3,829.00

Exhibit 9

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

V.

National Football League and NFL Properties, LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB MDL No. 2323

Civil Action No. 2:14-cv-00029-AB

DECLARATION OF LINDA S. MULLENIX IN SUPPORT OF PETITION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES

I, Linda S. Mullenix, declare, pursuant to 28 U.S.C. § 1746:

1. I submit this declaration in support of the Faneca Objectors' Petition for an Award of Attorneys' Fees and Expenses in connection with services rendered to the benefit of the settlement class in the above-captioned case. I have personal knowledge of the matters set forth in this Declaration, and if called upon, I would testify as follows:

¹ The Faneca Objectors – Alan Faneca, Roderick Cartwright, Jeff Rohrer, and Sean Considine – were previously known to this Court as the Morey Objectors. At that time, the objector group also included Sean Morey, Ben Hamilton, and Robert Royal. Those three objectors have since opted out of the settlement class.

I. MY BACKGROUND AND QUALIFICATIONS

- 2. I have been a professor since 1974 and at the University of Texas since 1991, where I have taught classes on federal civil procedure, mass tort litigation, current issues in class action litigation, aggregate and class action litigation in a global context, state class action procedure, complex litigation, federal courts, conflicts, professional responsibility, and civil justice reform. I have also been a visiting professor at the University of Trento (Italy), Harvard Law School, the University of Michigan Law School, and Southern Methodist University Law School. I have held the Reuschlein Distinguished Visiting Chair at Villanova Law School and served as the Katherine Ryan Distinguished Professor at the Institute on World Legal Problems in Innsbruck, Austria.
- 3. I am the author or co-author of twenty-two books, including *Mass Tort Litigation* (3d ed. 2017); *Leading Cases in Civil Procedure* (3d ed. 2017); *Federal Courts in the Twenty-First Century* (3d ed. 2007); *State Class Action Practice and Procedure* (2000); *ALI Restatement Third, The Law Governing Lawyers* (2000); *Understanding Federal Courts* (1998; 2d ed. 2015); and *Moore's Federal Practice* (2d and 3d eds.). I have also written hundreds of articles published in *The Chicago Legal Forum, Cornell Law Review, The Georgetown Law Journal, Harvard Law Review, Michigan Law Review, Minnesota Law Review, Stanford Law Review, University of Pennsylvania Law Review, Northwestern Law Review, Texas Law Review, and Vanderbilt Law Review, as well as numerous other journals. Courts throughout the United States have cited my articles on procedure and complex litigation.*
- 4. I served as a Supreme Court Fellow at the Federal Judicial Center. I am an elected Life Member of the American Law Institute and the Texas Bar Foundation. I am an elected member of the American Bar Foundation and the International Association of Procedural Law. I have also served as Reporter for the ABA Task Force on Class Actions; Reporter for the

Southern District of Texas, Civil Justice Reform Act; Reporter for the National Conference of Federal-State Judicial Relationships; Advisor to the Texas Class Action Rules Subcommittee; and Advisor to the National Center for State Courts, Study on Civil Discovery.

5. My full curriculum vitae is attached as Exhibit A.

II. MY EFFORTS ON BEHALF OF THE SETTLEMENT CLASS

- 6. I was retained as an expert consultant by MoloLamken LLP, counsel for the Faneca Objectors, in January 2014. On May 15, 2014, I entered my appearance in this proceeding on behalf of the Faneca Objectors. Dkt. 6044. During the litigation, I worked closely with counsel for the Faneca Objectors, MoloLamken LLP, to provide expert advice on class action law. In that role, I reviewed and commented on key filings and court orders, and discussed relevant legal issues with MoloLamken. I advised MoloLamken in connection with the Faneca Objectors' motion to intervene and their objection and opposition to preliminary approval of the Revised Settlement. *See* Molo Decl. ¶¶14-15. After this Court granted preliminary approval of the Revised Settlement on July 7, 2014, I advised MoloLamken in connection with the Faneca Objectors' objection to the Revised Settlement. *See id.* ¶¶19-22.
- 7. I assisted MoloLamken with their preparation for the Court's November 19, 2014 fairness hearing by consulting with MoloLamken regarding the settling parties' submissions, in particular the declaration of Dr. Robert Klonoff, Class Counsel's expert on class action law.
- 8. I also advised MoloLamken in connection with the Faneca Objectors' efforts in the Third Circuit. I discussed with co-counsel class action law issues relevant to the Faneca Objectors' Rule 23(f) petition seeking review of this Court's order granting preliminary approval to the Revised Settlement. *See* Molo Decl. ¶18. I also consulted with MoloLamken regarding class action issues in connection with the Faneca Objectors' appeal of this Court's order granting final approval to the Final Settlement. *See id.* ¶¶38-40.

9. On April 18, 2016, the Third Circuit affirmed this Court's order granting final approval to the Final Settlement. *See In re: Nat'l Football League Players' Concussion Injury Litig.*, 821 F.3d 410 (2016). I consulted with MoloLamken regarding the decision of whether to petition for Supreme Court review of the Third Circuit's ruling. *See* Molo Decl. ¶43.

III. MY TOTAL FEES AND EXPENSES

10. Over the course of three years, I devoted a total of 71.25 hours of consulting time to the case. At my standard hourly billing rate of \$550 per hour, that time represents \$39,187.50 in fees. Exhibit B is a chart summarizing the total number of hours and fees I devoted to this litigation. The hourly rates reflected are my customary hourly rate that other clients have agreed to pay for my consulting services. To my knowledge, that rate is reasonable for expert consultants with similar qualifications and experience.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: January **7**, 2017 In Austin, Texas

Linda S. Mullenix Linda S. Mullenix

Exhibit A

PROFESSOR LINDA S. MULLENIX BIOGRAPHICAL PROFILE



LINDA S. MULLENIX holds the Rita and Morris Atlas Chair in Advocacy at the University of Texas School of Law. Professor Mullenix earned M.Phil. and Ph.D. degrees in political science from Columbia University and graduated Phi Beta Kappa, magna cum laude from the City College of New York. She received her law degree from Georgetown University Law Center and practiced appellate litigation in Washington, D.C. She has been a college and law professor since 1974.

Professor Mullenix has served as a Supreme Court Fellow at the Federal Judicial Center; a scholar-in-residence at the Rockefeller Foundation Bellagio Study and Conference Center in Italy; and held the Fulbright Senior Distinguished Chair in Law, in Trento, Italy. She is an elected Life Member of the American Law Institute, and an elected Life Fellow of the Texas Bar Foundation. She also is an elected Fellow of the American Bar Foundation, as well as the International Association of Procedural Law. She served on the Board of Directors of the Austin Fulbright Alumni Association.

In January 2012, Professor Mullenix was honored as a "Pathfinder 2012" by the Travis County Women's Law Association, which recognizes women in the community who "have used their law degrees in ways that inspire the rest of us."

Professor Mullenix teaches federal civil procedure, mass tort litigation, and various courses relating to class action litigation. She also has taught complex litigation, federal courts, conflict of laws, professional responsibility, and civil justice reform. She has been a visiting professor at Oxford University, the University of Trento (Italy), Harvard, Michigan, and Southern Methodist law schools; held the Reuschlein Distinguished Visiting Chair (Villanova); and served as the Katherine Ryan Distinguished Professor at the Institute on World Legal Problems in Innsbruck, Austria.

Professor Mullenix is the author or co-author of twenty-two books including Mass Tort Litigation (3d ed. 2017); Leading Cases in Civil Procedure (3d ed. 2017); Understanding Federal Courts (2d ed. 2015); Civil Procedure Blackletter Series (2d ed. 2014); Federal Courts in the Twenty-First Century (3d ed. 2007); State Class Action Practice and Procedure (2000); Restatement Third, The Law Governing Lawyers (2000); and Moore's Federal Practice.

For more than twenty years she has been a contributor to *Preview of Supreme Court Cases* and a regular columnist for the *National Law Journal*. She served as an Associate Reporter for the ALI *Restatement of the Law Governing Lawyers*, a consultative member of the ALI *Transnational Rules of Civil Procedure* and the ALI *Complex Litigation Project*. Professor Mullenix has written dozens of articles published in *The Chicago Legal Forum*, *Cornell Law Review*, *Georgetown University Law Journal*, *Harvard Law Review*, *Michigan Law Review*, *Minnesota Law Review*, *Stanford Law Review*, *The Stanford Journal of Complex Litigation*, *University of Pennsylvania Law Review*, *Northwestern Law Review*, *Texas Law Review*, and *Vanderbilt Law Review*, as well as numerous other journals.

Professor Mullenix has served the profession in various capacities, including as Reporter for an ABA Task Force on Class Actions; Reporter for the Southern District of Texas, Civil Justice Reform Act; Reporter for the National Conference of Federal-State Judicial Relationships; Advisor, Texas Class Action Rules Subcommittee; and Advisor, National Center for State Courts, *Study on Civil Discovery*.

Professor Mullenix has been an invited participant at numerous academic conferences, including the ABA Conference on the Future of Class Action Litigation in America; the Symposium on Cutting Edge Issues in Class Action Litigation, The Legal Forum, University of Chicago; Class Action Conference, Judicial Conference Committee on Rules of Practice and Procedure; the Gulf States Class Action Symposium; the University of Pennsylvania Symposium: Mass Torts; the ABA Class Action Institute; the Mass Tort Working Group, Judicial Conference Committee on Rules of Practice and Procedure; the Special Study Conference on Federal Rules Governing Attorney Conduct, Judicial Conference Committee on Rules of Practice and Procedure; the Research Conference on Class Actions, Institute for Judicial Administration and N.Y.U.: the Conference on Civil Procedure and the Future of the Federal Rules, Southwest Legal Foundation and S.M.U. University; and the National Mass Tort Litigation Conference. She has been a repeat participant at Emory Law School's Randolph Thrower Symposium and the DePaul University College of Law Clifford Symposium. She also has served as a faculty member for the Annual Conference on Complex Litigation and Resolution of Class Action Litigation, and has delivered lectures relating to class action litigation in Austria, Brazil, Canada, Colombia, Germany, Israel, Italy, Switzerland, and the U.K.

Courts throughout the United States have cited Professor Mullenix's articles on procedure and complex litigation. She has appeared as a radio commentator on National Public Radio and been quoted in The *New York Times*, the *Wall Street Journal*, the *Los Angeles Times*, the *National Law Journal*, *CNNOpinion.com*, and the *Guardian (U.K.)*, among other media publications. Professor Mullenix has worked as counsel and as a consulting expert with plaintiffs, defendants, and objectors on numerous prominent federal and state class action cases. In addition, Professor Mullenix has worked on Canadian class actions; class litigation under the Brazilian Consumer Protection Act; and London arbitration relating to mass tort settlements. She also has been an adviser regarding proposed Swedish and Finnish class action legislation.

View my research on my SSRN page: http://ssrn.com/author=98468 Faculty profile website: http://www.utexas.edu/law/faculty/lsmull52/

Professor Linda S. Mullenix

 $\frac{http://www.utexas.edu/law/faculty/lsmull52/}{http://ssrn.com/author=98468}$

RESIDENCE: UNIVERSITY:

2305 BARTON CREEK BLVD. #2 727 EAST DEAN KEETON ST. AUSTIN,

TEXAS 78735

PHONE: (512) 263-9330

PHONE: 512-232-1375

Imullenix@hotmail.com

AUSTIN, TEXAS 78705

PHONE: 512-232-1375

Imullenix@law.utexas.edu

UNIVERSITY OF TEXAS SCHOOL OF LAW RITA AND MORRIS ATLAS CHAIR IN ADVOCACY (2001- PRESENT) WARD CENTENNIAL PROFESSOR 1991–2001

COURSES: Civil Procedure; Complex Litigation; Mass Tort Litigation; Civil Justice Reform (seminar); Current Issues in Class Action Litigation (seminar); Class Action Litigation in a Global Context; (seminar); State Class Action Practice and Procedure (seminar); Aggregate Litigation in A Global Context (seminar)

COMMITTEES: Advocacy Programs; Appointments (Chair, 1992-93); Budget; Tenure; Capital Campaign Advisory Committee; Voting Procedures; International Studies; Graduate Studies; Computer Committee; Rules & Procedures; Faculty Governance

SABBATICAL AND RESEARCH APPOINTMENTS

Eugenia C. McDonald Endowed Chair of Civil Procedure (Sabbatical 2012) W. James Kronzer Chair in Trial and Appellate Advocacy (Summer 2010) Edward Clark Centennial Professorship in Law (Summer 2000) F. Scott Baldwin Research Professorship in Law (Summer 1999) Tom Sealy Centennial Research Professorship in Law (Summer 1998) Fred & Emily Marshall Wulff Centennial Chair (Summer 1996, 1997) Fulbright & Jaworski Research Professorship in Law (Summer 1994) Vinson & Elkins Chair in Law (Fall 1993) Fred & Emily Marshall Wulff Centennial Chair in Law (Summer 1992)

OXFORD UNIVERSITY – UNIVERSITY OF TEXAS EXCHANGE PROGRAM VISITING SCHOLAR, MAY 2013

FULBRIGHT DISTINGUISHED SENIOR CHAIR IN LAW UNIVERSITY OF TRENTO, ITALY SPRING 2007

SCHOLAR-IN-RESIDENCE, THE ROCKEFELLER FOUNDATION BELLAGIO STUDY AND CONFERENCE CENTER BELLAGIO, ITALY (2002)

DISTINGUISHED VISITING PROFESSORSHIP IN ADVOCACY AND DISPUTE RESOLUTION

The Center for Advocacy and Dispute Resolution University of Tennessee College of Law, Spring 2001

HAROLD GILL REUSCHLEIN DISTINGUISHED VISITING CHAIR

Villanova University School of Law, Spring 2000 Mass Tort Litigation

UNIVERSITY OF MICHIGAN LAW SCHOOL

Visiting Professor, Fall 1996 Mass Tort Litigation; Civil Justice Reform

HARVARD UNIVERSITY LAW SCHOOL

Visiting Professor, 1994-95

Civil Procedure; Complex Litigation; Mass Tort Litigation

SOUTHERN METHODIST UNIVERSITY SCHOOL OF LAW

Visiting Professor, Spring 1998 Mass Tort Litigation

St. Mary's Institute on World Legal Problems, Innsbruck, Austria

Katherine Ryan Distinguished Professor, 1997 International Litigation and Arbitration (2002) Mass Litigation in the European Union (1996, 1997, 1999, 2009, 2011, 2012, 2016)

SUPREME COURT JUDICIAL FELLOW, Federal Judicial Center, 1989-90

CATHOLIC UNIVERSITY OF AMERICA SCHOOL OF LAW

Professor 1989-91; Associate Professor 1986-1989

Assistant Professor 1984-86; Visiting Assistant Professor 1983-84

COURSES: Civil Procedure; Complex Litigation; Federal Courts; Conflict

of Laws; Trial Advocacy; Estates; Professional Responsibility

COMMITTEES: Admissions; Budget (faculty elected); Curriculum; Dean's

Search Committee, 1986 (faculty elected)

TEACHING HONORS: Graduation Marshal, 1986

LOYOLA OF LOS ANGELES LAW SCHOOL

Visiting Professor, 1982-83

Clinical Professor, 1982; Instructor, 1981

COURSES: Contracts; Wills and Trusts; Community Property;

Civil Procedure Workshop; Legal Methods

PROFESSIONAL ACTIVITIES

AMERICAN BAR ASSOCIATION

Vice-Chair, Civil Procedure & Evidence Committee Tort and Insurance Practice Section (1997-98)

Reporter, Task Force on Class Actions Tort and Insurance Practice Section (1995-97)

Cases ste 22012md-Document: 00301138165920-2Pagie: 0178/11/Date Pailed 808/09/2019

Robert B. McKay Law Professor Award Committee (1997-98; 1998-99) Tort and Insurance Practice Section

Contributing Editor, *Preview of Supreme Court Cases*, Public Education Division of the American Bar Association

AMERICAN LAW INSTITUTE (elected member 1989; Life Member 2014)

Associate Reporter, RESTATEMENT OF THE LAW THIRD, THE LAW GOVERNING LAWYERS Consultative Group, COMPLEX LITIGATION PROJECT Consultative Group, TRANSNATIONAL RULES OF CIVIL PROCEDURE

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

Co-Reporter and Legal Advisor, Advisory Group for the United States District Court for the Southern District of Texas, Civil Justice Reform Act (1991-93)

DISTRICT OF COLUMBIA BAR

Member, Special Committee on Ethics, Continuing Legal Education, and the Model Rules of Professional Conduct (1987-89)

NATIONAL CONFERENCE ON STATE-FEDERAL JUDICIAL RELATIONSHIPS

Reporter to Hon. Chief Judge Politz, United States Court of Appeals for the Fifth Judicial Circuit (April 1992)

NATIONAL CENTER FOR STATE COURTS

Advisory Committee Member, STUDY ON STATE CIVIL DISCOVERY (1990-92)

MEMBER, INTERNATIONAL ASSOCIATION OF PROCEDURAL LAW (elected May 1997)

BOARD OF DIRECTORS, THE FULBRIGHT ALUMNI ASSOCIATION OF AUSTIN, TEXAS

COLUMNIST, THE NATIONAL LAW JOURNAL (federal practice, complex litigation, class actions)

EDITORIAL BOARD, Journal of Legal Education (1997-2000)

BOARD OF EDITORS, Securities and Class Action Litigation Report (Glasser LegalWorks)

BOARD OF ADVISERS, GREENBAG (GREENBAG ALMANAC)

ADVISORY BOARD, BNA Class Action Reporter

ADVISORY BOARD, Litigation, Procedure and Dispute Resolution Abstracts

ADVISORY BOARD, The Review of Litigation (UNIVERSITY OF TEXAS SCHOOL OF LAW)

CONTRIBUTING EDITOR, JOTWELL (COURTS LAW SECTION)

INTERNATIONAL EDITORIAL BOARD, Revista de Processo, INSTITUTO BRASILEIRO DE DIREITO PROCESSUAL, BRASIL

MEMBER, SCRIBES, AMERICAN SOCIETY OF WRITERS ON LEGAL SUBJECTS

ASSOCIATION OF AMERICAN LAW SCHOOLS

Speaker, Workshop on Civil Procedure (June 2010)

Speaker, Scholarship, New Teachers' Workshop (July 1996)

Professional Development Committee (Chair, 1991-93, member 1990-1991)

Executive Committee, Conflict of Laws Section (1991-92)

Planning Committee, Workshop on Jurisprudence Throughout the Curriculum (1992)

Co-chair, Committee on Complex Litigation, Civil Procedure Section (1990-91)

Planning Committee, New Teachers Workshop (July 1990)

Group Discussion Leader, Faculty Recruitment Conference (Fall 1989, 1990)

Chair, Planning Committee, New Teachers Workshop (July 1989)

Co-chair, Committee on New Teachers, Women's Section (1989-90)

Planning Committee, Civil Procedure Conference (June 1988)

Teaching demonstration, New Teachers Workshop (July 1988)

Executive Committee, Civil Procedure Section (1987-88)

BAR AND PROFESSIONAL MEMBERSHIPS

State Bar of Texas

United States Supreme Court

United States Court of Appeals for the Fifth Judicial Circuit

United States Court of Appeals, District of Columbia United

States District Court, District of Columbia

District of Columbia Bar (inactive status)

Fellow, American Bar Foundation (elected 2011)

Fellow, Texas Bar Foundation (elected 2005)

American Law Institute (elected 1989)(life member, 2014)

American Judicature Society

American Political Science Association

American Bar Association (Litigation Section, Class Action and Derivative Litigation Committee; Tort and Insurance Practice Section)

International Association of Procedural Law (elected July 1997)

Phi Beta Kappa (elected junior year)

Who's Who

Who's Who in America, 50th – 70th eds. (1997-2015)

Who's Who In American Law, 5th-8th eds. (1987-1994)

Who's Who In American Women, 14th-25th eds. (1984-2009)

Who's Who of Emerging Leaders in America, 1st-3d eds. (1987-1990)

Who's Who in American Education, 4th-8th ed. (1993-2008)

Who's Who in the South and Southwest, 24th ed. (1994); 33rd ed. (2007)

OTHER HONORS

Pathfinder 2012, honored by the Travis County Women Lawyers Association as an attorney in the community who "has used their law degrees in ways that inspire the rest of us."

LEGAL EDUCATION

GEORGETOWN UNIVERSITY LAW CENTER, WASHINGTON D.C.

DEGREE: J.D., 1980

Dean's List; Law Fellow

LAW REVIEW: The Tax Lawyer

Associate Editor, 1979-80 Staff Member, 1978-79

CLINIC: Appellate Litigation Clinic Author,

Brief for the Respondent,

United States v. Henry, 447 U.S. 264 (1980)

GRADUATE EDUCATION

COLUMBIA UNIVERSITY, NEW YORK CITY

DEGREES: Ph.D., Political Science, 1977

M. Phil., Political Science, 1974

HONORS: President's Fellow, Columbia University

National Defense Graduate Fellow

New York State Regents Scholar (Graduate) Danforth

Graduate Fellow, Honorable Mention

N.S.F. Graduate Fellowship, Honorable Mention

DISSERTATION: De Facto Political Obligation: Historical and Theoretical

Perspectives (unpublished 1977)

UNDERGRADUATE EDUCATION

THE CITY COLLEGE OF NEW YORK

DEGREE: B.A., Magna Cum Laude, 1971

Political Science

HONORS: Phi Beta Kappa

Dean's List; New York State Regents Scholar

PUBLICATIONS

BOOKS AND TREATISES

- 1. MASS TORT LITIGATION: CASES AND MATERIALS (West Academic Publishing 3d ed. 2017)(663 PGS.)
- 2. LEADING CASES IN CIVIL PROCEDURE (West Academic Publishing 3d ed. 2017)(984 pgs).
- 3. CIVIL PROCEDURE: EXAMPRO OBJECTIVE QUESTIONS AND EXPLANATIONS (West Academic Publishing 3d ed. 2016)(427 pgs).
- 4. UNDERSTANDING FEDERAL COURTS (LEXIS-Matthew Bender 2d ed. 2015 with Profs. Martin Redish and Georgene Vairo)(712+ pgs.)
- 5. CIVIL PROCEDURE (West Academic Blackletter Series 2d ed. 2014)(800+ pgs).
- 6. LEADING CASES IN CIVIL PROCEDURE (THOMSON WEST 2D ED. 2012)(907 PGS.)
- 7. LEADING CASES IN CIVIL PROCEDURE (Thomson West 2010)(891 PGS.).
- 8. MASS TORT LITIGATION: CASES AND MATERIALS (Thomson West 2d ed. 2008)(1440 pgs.)
 - TEACHER'S MANUAL, MASS TORT LITIGATION: CASES AND MATERIALS (Thomson West 2d ed. 2008).
 - MASS TORT LITIGATION: CASES AND MATERIALS (2010 UPDATE).
- 9. FEDERAL COURTS IN THE TWENTY-FIRST CENTURY: CASES AND MATERIALS (LEXIS 3d ed. 2007, with Howard K. Fink, Thomas D. Rowe, and Mark V. Tushnet).
 - TEACHER'S MANUAL, FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS (LEXIS 3d ed. 2007, with Howard K. Fink, Thomas D. Rowe, and Mark V. Tushnet).
 - FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS (LexisNexis), 2008 UPDATE.
 - FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS (LexisNexis), 2009 UPDATE.
 - FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS (LexisNexis), 2010 UPDATE.
- 10. CIVIL PROCEDURE: EXAMPRO-OBJECTIVE QUESTIONS AND EXPLANATIONS (2d ed. 2007 Thomson West).
- 11. CIVIL PROCEDURE (THOMSON WEST BLACK LETTER SERIES, 600 PGS. 2004).

- 12. FEDERAL COURTS IN THE TWENTY-FIRST CENTURY: CASES AND MATERIALS (LEXIS 2d ed. 2002, with Howard K. Fink, Thomas D. Rowe, and Mark V. Tushnet).
 - TEACHER'S MANUAL, FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS (LEXIS 2d ed. 2002, with Howard K. Fink, Thomas D. Rowe, and Mark V. Tushnet).
 - FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS (LexisNexis), 2003 UPDATE
 - FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS (LexisNexis), 2004 UPDATE
 - FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS (LexisNexis), 2005 UPDATE
 - Federal Courts in the 21st Century: Cases and Materials (LexisNexis), 2006 Update
- 13. STATE CLASS ACTION PRACTICE AND PROCEDURE (CCH 2000)(two volume treatise)(with annual updates, 2001-06).
- 14. RESTATEMENT OF THE LAW THIRD, THE LAW GOVERNING LAWYERS (American Law Institute 2000)(Associate Reporter).
- 15. UNDERSTANDING FEDERAL COURTS (LEXIS-Matthew Bender 1998)(with Profs. Martin Redish and Georgene Vairo).
- 16. CIVIL PROCEDURE: EXAMPRO-OBJECTIVE QUESTIONS AND EXPLANATIONS (West Group 1998).
- 17. MOORE'S FEDERAL PRACTICE, Vol. 17 (Lexis-Matthew Bender 3d ed. 1997), with continuous updates.
- 18. CIVIL PROCEDURE (Aspen Law and Business Roadmap Series 1997).
- 19. FEDERAL COURTS (Casenotes Legal Education Series 1997)(with Prof. Howard Fink).
- 20. FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS (Lexis-Michie Contemporary Legal Education Series, 1996)(with Howard K. Fink, Thomas D. Rowe, and Mark V. Tushnet).
 - FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS (Michie), 1997 UPDATE.
 - FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS (Lexis-Michie), 1998 UPDATE.
 - TEACHER'S MANUAL, FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS (Lexis-Michie Contemporary Legal Education Series, 1998)(with

Profs. Howard K. Fink, Thomas D. Rowe, and Mark V. Tushnet).

- FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS (Lexis-Michie), 1999 UPDATE.
- 21. MASS TORT LITIGATION: CASES AND MATERIALS (West Group 1996).
 - TEACHER'S MANUAL TO ACCOMPANY MASS TORT LITIGATION: CASES AND MATERIALS (West Group 1996).
 - MASS TORT LITIGATION: CASES AND MATERIALS (West Group), 1997 UPDATE.
 - MASS TORT LITIGATION: CASES AND MATERIALS (West Group), 1998 UPDATE.
 - MASS TORT LITIGATION: CASES AND MATERIALS (West Group), 1999 UPDATE.
 - MASS TORT LITIGATION: CASES AND MATERIALS 2000 SUPPLEMENT (WEST GROUP).
- 22. MOORE'S FEDERAL PRACTICE, Vol. 1A, Part II (Matthew Bender 2d ed. 1991).

REPORTS AND BOOK CHAPTERS

- 1. American Exceptionalism and The Theory of Convergence: Are We there Yet?, In COMMON LAW, CIVIL LAW AND THE FUTURE OF CATEGORIES at 41 (Janet Walker and Oscar Chase eds. LexisNexis 2010)(Proceedings of the International Association of Procedural Law, Toronto Conference on "The Future of Categories"), (reprinted in 49 The Supreme Court Review 2d Series 41 (2010).
- 2. SETTLEMENTS (CHAPTER VII), in A Practitioner's Guide to CLASS ACTIONS (Marcy Greer, ed., American Bar Association 2010).
- 3. *I Class Action Settlements Negli Stati Uniti* (Capitolo VII), in LA CONCILIAZIONE COLLETTIVA, Università Degli Studi di Milano, Facoltà di Giurisprudenza (2009).
- 4. REPORT ON COMMON LAW COUNTRIES, IN OS PROCESSES COLECTIVOS NOS PAÍSES DE CIVIL LAW E COMMON LAW, UMA ANÁLISE DE DIREITO COMPARADO (with Ada Pellegrini Grinover, Kazuo Watanabe and Linda Mullenix, Editora Revista Dos Tribunais)(Reporter, General Report for Common Law Countries)(2011).
- 5. Developments in the Procedural Means for Resolution of Mass Tort Litigation in the United States, in Terrorism, Tort Law and Insurance: A Comparative Survey 204 (Bernhard A. Koch ed., 2004).
- 6. REPORT OF THE ABA TORT AND INSURANCE PRACTICE SECTION, TASK FORCE ON CLASS ACTIONS CONCERNING PROPOSED CHANGES TO RULE 23 OF THE FEDERAL RULES OF CIVIL PROCEDURE (1996)(Reporter).
- 7. REPORT AND PLAN OF THE CIVIL JUSTICE REFORM ACT ADVISORY GROUP OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS (October 1991)(Co-Reporter).

ARTICLES

PUBLISHED ARTICLES

- 8. Reflections of a Recovering Aggregationist, 15 U. Nev. L. Rev. 1455 (Winter 2015)(symposium issue).
- 9. *Designing a Compensatory Fund: The Search for First Principles*, 3 Stan. J. Complex Litig. 1 (2015)(symposium issue).
- 10. Gaming the System: Protecting Consumers from Unconscionable Contractual Forum Selection and Arbitration Clauses, 66 Hastings L. Rev. 719 (2015)(symposium issue).
- 11. Competing Values: Preserving Litigant Autonomy in an Age of Collective Redress, 64 DePaul L. Rev. 601 (Winter 2015)(symposium issue).
- 12. *Discovering Truth and the Rule of Proportionality*, I Seminario Internacional de Derecho Procesal: Dilemas Sobre La Verdad en el Proceso Judicial (2014).
- 13. Personal Jurisdiction Stops Here: Cabining the Extraterritorial Reach of American Courts, 45 U. Toledo L. Rev. 705 (2014)(symposium issue).
- 14. Ending Class Actions As We Know Them: Rethinking the American Class Action, 64 Emory L.J. 399 (2014)(the 2014 Randolph W. Thrower Symposium, American Dispute Resolution in 2020: The Death of Group Vindication of the Law?).
- 15. Putting Proponents to Their Proof: Evidentiary Rules at Class Certification, 82 G.W. U. L. Rev. 606 (2014)(symposium issue, "The Future of Class Actions").
- 16. Class Actions Shrugged: Mass Actions and the Future of Aggregate Litigation, 32 Rev. Litig. 591 (2013)(symposium issue, "The Class Action Fairness Act of 2005: Perspectives and Predictions").
- 17. Aggregate Litigation and the Death of Democratic Dispute Resolution, 107 Nw. U. L. Rev. 511 (2013)(symposium issue).
- 18. *Professor Ed Cooper: Zen Minimalist*, 46 Mich. J. of L. Ref. 661 (Winter 2013)(solicited essay in honor of Prof. Ed. Cooper, Reporter to the Advisory Committee on Civil Rules).
- 19. Mass Tort Funds and the Election of Remedies: The Need for Informed Consent, Symposium, 31 Rev. of Litig. 833 (2012)(symposium issue, "Large Scale Litigation Issues: Class Actions and Mass Tort Cases in 2012 and Beyond").
- 20. The Twenty-Fifth Anniversary of the Supreme Court's Summary Judgment Trilogy, 43 Loyola U. Chi. L. Rev. 651 (2012)(symposium issue).
- 21. The Titanic of Worst Supreme Court Decisions: Carnival Cruise Lines v. Shute, Symposium, The Supreme Court's Worst Decisions, 12 U.N.L.V. L. Rev. 549 (2012).

- 22. Prometheus Unbound: The BP Gulf Oil Fund as a Means for Resolving Mass Tort Claims, 71 La. L. Rev. 819 (2011).
- 23. *Dubious Doctrines: The Quasi Class Action*, 80 U. Cinn. L. Rev. 389 (2011)(symposium issue, "The Principles of Aggregate Litigation: CAFA, PSLRA and Beyond").
- 24. Federal Class Actions: A Near Death Experience in a Shady Grove, 79 G.W.U. L. Rev. 448 (2010)(in Symposium, "Aggregate Litigation: Critical Perspectives").
- 25. Dropping the Spear: The Case for Enhanced Summary Judgment Prior to Class Certification, 43 Akron U. Law Rev. 1197 (2010)(AALS program on summary judgment January 2010).
- 26. *Nine Lives: The Punitive Damage Class* 58 U. Kan. L. Rev. 845 (2010)(in Symposium, "Aggregate Litigation Since *Ortiz v. Fibreboard*").
- 27. Strange Bedfellows: The Politics of Pre-emption, 59 Case Western Reserve L. Rev. 837 (2009)(Symposium, "Access to the Courts in the Roberts Era," January 30, 2009).
- 28. I Class Action Settlements negli Stati Uniti (Class Action Settlements in the United States), 59 Studi Urbinati (Università degli Studi di Urbino 407 (2008)(reprinted in La Conciliazione Collettiva at 147 (Università Degli Studi di Milano 2009).
- 29. New Trends in Standing and Res Judicata, Report for Common Law Countries, in Proceedings of the XIII World Congress of Procedural Law, New Trends in Procedural Law (2007)(pp. 500-534).
- 30. Baycol and Vioxx: Case Studies in Mass Tort Litigation, in Études et Dossiers, Working Paper Series of the Geneva Association, International Association for the Study of Insurance Economics (2007)(paper presentation from the 2006 Annual Liability Regimes Conference)(pp. 3-1 et seq.).
- 31. The American Class Action Fairness Bill and Forum-Shopping American-Style, in the International Association for the Study of Insurance Economics: The Geneva Papers (2006)(Palgrave Macmillan Ltd).
- 32. *GRIDLAW: The Enduring Legacy of Phillips Petroleum Co. v. Shutts*, 74 U.M.K.C. L. Rev. 651 (2006)(symposium, "Due Process and Class Actions: The 20th Anniversary of *Phillips Petroleum v. Shutts*).
- 33. The Varieties of State Rulemaking Experience and the Consequences for Substantive and Procedural Fairness, Report of the 2005 Forum for State Appellate Court Judges, The Roscoe Pound Institute (2005).
- 34. Should Mississippi Adopt a Class Action Rule? Balancing the Equities: Ten Considerations That Mississippi Rulemakers Ought to Take Into Account in Evaluating Whether to Adopt a State Class Action Rule, 24 Miss. C. L. Rev. 217 (2005).

- 35. The Future of Tort Reform: Possible Lessons From the World Trade Center Victim Compensation Fund, 53 Emory L. Rev. 1315 (2004)(the Randolph W. Thrower Symposium on the Future of Tort Reform: Reforming the Remedy, Rebalancing the Scales, sponsored by the Emory University School of Law and the Emory Law Journal).
- 36. Taking Adequacy Seriously: The Inadequate Assessment of Adequacy in Litigation and Settlement Classes, 57 Vanderbilt L. Rev. 1687 (2004)(10th Annual Institute for Law and Economic Policy, Symposium: Protecting the Public; The Role of Private and Public Attorneys' General).
- 37. Dispositive Motions After Amchem and Ortiz: The Problem of "Logically Antecedent" Inquiries, 2004 Michigan State L. Rev. 703 (2004)(symposium on "Multi-Jurisdictional and Cross-Border Class Actions," sponsored by the Michigan State University DCL College of Law, April 16-17, 2004).
- 38. *Judge Jack B. Weinstein, Tort Litigation, and the Public Good*, Vol. XII (No.1) Brooklyn L. Rev. 1 (2003)(Contributor, A Roundtable Discussion to Honor One of America's Great Trail Judges on the Occasion of His 80th Birthday).
- 39. Developments in the Procedural Means For Resolution of Mass Tort Litigation in the United States, 1975-2003,11 J. Tort and Insurance Law 204 (Springer Wien/New York 2003)(Conference on Liability for Acts of Terrorism, sponsored by the European Centre of Tort and Insurance Law).
- 40. No Exit: Mandatory Class Actions in the New Millennium and the Blurring of Categorical Imperatives, Vol. 2003 The Chicago Legal Forum 177(2003)(symposium on "Cutting Edge Issues in Class Action Litigation" sponsored by the University of Chicago Law School).
- 41. The September 11th Victims' Compensation Fund: Fund Approaches to Resolving Mass Tort Litigation, 9 Conn. Ins. L.J. 121 (2002)(symposium "September 11th Victim Compensation Fund of 2001: A Model for the Future?, Liability and Insurance After September 11th" sponsored by the University of Connecticut School of Law, Hartford, Connecticut Insurance Law Center and the Geneva Association).
- 42. Some Joy in Whoville –Rule 23(f), A Good Rulemaking, 69 U. Tenn. L. Rev. 97 (2001).
- 43. Lessons From Abroad Complexity and Convergence, 46 Villanova L. Rev. 1 (2000)(Harold Gill Reuschlein Distinguished Visiting Chair Lecture, Villanova University School of Law).
- 44. Re-Interpreting American Class Action Procedure: The United States Supreme Court Speaks, 5 Zeitschrift Fur Zivilprozess International 337 (2000).
- 45. Abandoning the Federal Class Action Ship: Is There Smoother Sailing for Class Actions in Gulf Waters, 74 Tulane L. Rev. 1709 (2000)(symposium on class actions in the Gulf States).

- 46. Back to the Futures: Privatizing Future Claimants, 148 U. Pa. L. Rev. 1919 (2000)(Mass Torts: A Symposium, sponsored by the David Berger Program on Complex Litigation and the University of Pennsylvania Law Review in Conjunction with The Advisory Committee on Civil Rules and The Working Group on Mass Torts).
- 47. Resolving Aggregate Mass Tort Litigation: The New Private Law Dispute Resolution Paradigm, 33 Valparaiso L. Rev. 413 (1999)(Monsanto Lecture in Tort Reform).
- 48. *Barbecue of the Vanities*, 10 U.C.L.A. L.J. 1 (1999 2000).
- 49. *Getting to Shutts*, 46 U. Kan. L. Rev. 1 (1998)(symposium in honor of Prof. Robert Casad).
- 50. Endnote: Practical Wisdom and Third-Generation Mass Tort Litigation, 31 Loyola of Los Angeles Law Rev. 551 (1998)(symposium on mass tort litigation).
- 51. *The Pervasive Myth of Discovery Abuse: The Sequel*, 39 B.C.L. Rev. 683 (1998)(Advisory Committee on Civil Rules conference on discovery).
- 52. The Constitutionality of the Proposed Amendment to Rule 23, 39 Ariz. L. Rev. 615 (1997)(symposium on Rule 23: class actions at the crossroads).
- 53. *The Jurisprudence of Yogi Berra*, 46 Emory L.J. 697 (1997)(with thirty-eight coauthors).
- 54. Class Actions, Personal Jurisdiction, and Due Process: Implications for Mass Tort Litigation, 28 U.C. Davis L. Rev. 871 (1995) (symposium on 50th anniversary of International Shoe Co. v. Washington).
- 55. Multiforum Federal Practice: Ethics and Erie, 9 Geo. J. Legal Ethics 89 (1995).
- 56. *Judicial Power and The Rules Enabling Act*, 46 Mercer L. Rev. 733 (1995).
- 57. *Mass Tort Litigation and the Dilemma of Federalization*, 44 De Paul L. Rev. 755 1995)(symposium on the federalization of state law).
- 58. *Jurisdiction, Justice, and Choice of Law for the Twenty-First Century,* 29 New Eng. L. Rev. 517 (1995)(conference symposium).
- 59. Mass Torts as Public Interest Law: Paradigm Misplaced, 88 Nw. U. L. Rev. 579 (1994).
- 60. Adversarial Justice, Professional Responsibility, and the New Federal Discovery Rules, 14 Rev. of Litig. 13 (1994).
- 61. Discovery in Disarray: The Pervasive Myth of Pervasive Discovery Abuse and the Consequences of Unfounded Rulemaking, 46 Stan. L. Rev. 1393 (1994)(symposium on Civil Justice Reform Act of 1990).

- 62. Unfinished Symphony: The Complex Litigation Project Rests, 54 La. L. Rev. 977 (1994).
- 63. Unconstitutional Rulemaking: The Civil Justice Reform Act and Separation of Powers, 77 Minn. L. Rev. 1283 (1993).
- 64. The Counter-Reformation in Procedural Justice, 77 Minn. L. Rev. 375 (1992).
- 65. Federalizing Choice of Law in Mass Tort Litigation, 70 Tex. L. Rev. 1623 (1992).
- 66. Civil Justice Reform Comes to the Southern District of Texas: Creating and Implementing A Cost and Delay Reduction Plan Under The Civil Justice Act of 1990, 11 Rev. of Litig. 165 (1992).
- 67. Another Easy Case, Some More Bad Law: Carnival Cruise Lines and the New Contractual Personal Jurisdiction, 27 Tex. Int'l. L.J. 323 (1992).
- 68. *Problems in Complex Litigation*, 10 Rev. of Litig. 213 (1991).
- 69. Beyond Consolidation: Post-Aggregative Procedure in Asbestos Mass Tort Litigation, 32 Wm. and Mary L. Rev. 475 (1991).
- 70. Hope Over Experience: Mandatory Informal Discovery and The Politics of Rulemaking, 69 N.C.L. Rev. 701 (1991).
- 71. Complex Litigation Reform and Article III Jurisdiction, 59 Fordham L. Rev. 169 (1990).
- 72. *God, Metaprocedure, and Metarealism at Yale,* 87 Mich. L. Rev. 1139 (1989).
- 73. Suiting Up For Litigation: Focus on Pretrial Procedure, 64 Notre Dame L. Rev. 601 (1989).
- 74. The Influence of History on Procedure: Volumes of Logic, Scant Pages of History, 50 Ohio St. L. J. 803 (1989).
- 75. Another Choice of Forum, Another Choice of Law: Consensual Adjudicatory Procedure in Federal Court, 57 Fordham L. Rev. 291 (1988).
- 76. User Friendly Civil Procedure: Pragmatic Proceduralism Slouching Away From Process Theory, 56 Fordham L. Rev. 1023 (1988).
- 77. Burying (With Kindness) The Felicific Calculus of Civil Procedure, 40 Vand. L. Rev. 541 (1987).
- 78. Summary Judgment: Taming The Beast of Burdens, 10 Am. J. of Trial Advocacy 433 (1987)(reprinted in 37 Defense Law Journal 529 (1988).
- 79. A Branch Too Far: Pruning the Abstention Doctrine, 75 Geo. L. J. 99 (1986).

- 80. Class Resolution of the Mass Tort Case: A Proposed Federal Procedure Act, 64 Texas L. Rev. 1039 (1986).
- 81. *The New Federal Express: Mail Service of Process under Amended Rule 4*, 4 Rev. of Litig. 299 (1985).
- 82. Creative Manipulation of Federal Jurisdiction: Is There Diversity After Death? 70 Cornell L. Rev. 1011 (1985).
- 83. The Limits of Complex Equality, 97 Harv. L. Rev. 1801 (1984).
- 84. *The Valuation of an Educational Degree at Divorce*, 16 Loyola of Los Angeles L. Rev. 277 (1983).
- 85. *The Marriage Contract: Spouses, Lovers, and The Law*, 15 Loyola of Los Angeles L. Rev. 759 (1982).

COMMENTARY AND ANALYSIS

- 86. False Narratives: Justice Scalia's Impact on Class Action Litigation, 17 Class Action Litig. Rep. 568 (BNA) (May 27, 2016).
- 87. *Class Actions: A Court Divided*, 8 PREVIEW OF UNITED STATES SUPREME COURT CASES 291-296 (August 2016)(annual review of Supreme Court Cases).
- 88. By the Numbers: Certifying Class Actions Based on Statistics, 2 Preview of United States Supreme Court Cases 51 (Nov. 2, 2015)(analyzing Tyson Foods, Inc. v. Bouphakeo).
- 89. Into Litigation's Black Hole: A Cosmic Solution, JOTWELL (March 31, 2015)(reviewing Hon. Eduardo C. Robreno, The Asbestos Product Liability Multidistrict Litigation (MDL-875): Black Hoe or New Paradigm?, 23 Widener L.J. 97 (2013)), http://courtslaw.jotwell.com/into-litigations-black-hole-a-cosmic-solution/.
- 90. Class Action Mismatch: Securities Class Action Jurisprudence and High Frequency Trading Manipulation, JOTWELL (October 31, 2015)(reviewing Tara Levens, Too Fast, Too Frequent? High-Frequency Trading and Securities Class Actions (forthcoming 82 U. CHI. L. REV. __ (2015)), http://courtslaw.jotwell.com/class-action-mismatch-securities-class-action-jurisprudence-and-high-frequency-trading-manipulation/
- 91. Securities Class Actions: For Whom the Bell Tolls, 42 Preview of United States Supreme Court Cases 7 (Oct. 6, 2014)(Public Employees' Retirement System v. IndyMac MBS, Inc.).
- 92. The Fraud on the Market Presumption in Securities Class Actions: Déjà vu All Over Again, 5 Preview of United States Supreme Court Cases 216 (Feb. 24, 2014)(Halliburton v. The Erica P. Fund).

- 93. Think the High Court is Pro-Corporate? Not Here; Companies Unable to Remove State Brought Consumer Protection Cases to Federal Court, Nat'l L.J. 13 (Feb. 3, 2014).
- 94. Front-End Duties to the Class, Jotwell Courts Law (The Journal of Things We Like (Lots), http://courtslaw.jotwell.com/front-end-duties-to-the-class (Jan. 17, 2014).
- 95. Clash of the Sovereigns I: The Class Action Fairness Act and State Parens Patriae Actions, 2 Preview of United States Supreme Court Cases 62 (Nov. 4, 2013)(State of Mississippi v. AU Optronics Corp.).
- 96. Clash of the Sovereigns II: Does the Younger Abstention Doctrine Distinguish Between Coercive and Remedial State Court Proceedings?, 2 Preview of United States Supreme Court Cases 67 (Nov. 4, 2013)(Sprint Communications v. Jacobs).
- 97. Does What Happens in Vegas Really Stay in Vegas? Revisiting the Personal Jurisdiction "Effects Test" and Proper Venue, 2 Preview of United States Supreme Court Cases 98 (Nov. 4, 2013)(Walden v. Fiore).
- 98. Due Process, General Personal Jurisdiction, and F-Cubed Litigation: The Extraterritorial Reach of American State Courts Over Foreign Nation Corporations for Alleged Human Rights Violations, 1 Preview of United States Supreme Court Cases 23 (Oct. 7, 2013)(DaimlerChrysler AG v. Bauman).
- 99. The \$7 Billion Stanford Ponzi Scheme: Class Litigation Against Third-Party Actors Under the Securities Litigation Uniform Standards Act, 1 Preview of United States Supreme Court Cases 33 (Oct. 7, 2013)(Chadbourne & Parke v. Troice).
- 100. The Practice: The Not-So-Effective Vindication Decision; The U.S. Supreme Court's Ruling in Italian Colors and Its Aftermath are a Big Blow to the Class Action Bar, Nat'l L.J. 30 (Sept. 9, 2013).
- 101. *The Court's 2012 Class Act: A Little Bit of This, A Little Bit of That*, 8 Preview of Supreme Court Cases 328 (Aug. 10, 2013).
- 102. The Practice: Class Action Cacophony at the Supreme Court, Nat'l L.J. 28 (April 15, 2013).
- 103. Fixing Personal Jurisdiction, Jotwell (The Journal of Things We Like (Lots), at http://courtslaw.jotwell.com (Federal courts section, April 15, 2013)
- 104. Round Five and Down for the Count? Class Arbitration on the Ropes Again, 6 Preview of Supreme Court Cases 270 (March 18, 2013)(Oxford Health Plans LLC v. Sutter).
- 105. Arbitrating Federal Antitrust Claims, Class Action Waivers, and the "Effective Vindication" Rule, 5 Preview of Supreme Court Cases 191 (Feb. 19, 2013)(American Express Co. v. Italian Colors Restaurant).
- 106. Gaming Removal Under the Class Action Fairness Act: Can a Plaintiff Stipulate to Less Than the Requisite Amount in Controversy to Evade Removal?, 4 Preview of

- Supreme Court Cases at 147 (January 7, 2013)(Standard Fire Ins. Co. v. Knowles).
- 107. If They Walk Like a Duck and Quack Like a Duck: Do the Class Action Mootness Doctrines Apply to Fair Labor Standards Actions?, 3 Preview of Supreme Court Cases at 115 (Nov. 26, 2012)(Genesis HealthCare Corp. v. Symczyk).
- 108. The Supreme Court Takes on Class Actions Again, Nat'l L. J. 9 (Nov. 5, 2012).
- 109. Tightening the Noose on Class Certification Requirements (I): Another Whack at the Fraud-on-the-Market Presumption in Securities Fraud Class Actions, 2 Preview of Supreme Court Cases 72 (October 29, 2012)(Amgen, Inc. v. Connecticut Retirement Plans and Trust Funds).
- 110. Tightening the Noose on Class Certification Requirements (II): Is Admissible Evidence Required at Class Certification? 2 Preview of Supreme Court Cases 77 (October 29, 2012)(Comcast Corp. v. Behrend).
- 111. A Year After Wal-Mart, Class Actions Not Dead Yet, Nat'l L.J. (June 11, 2012).
- 112. Confusion Over Telephone Consumer Protection Act: Justices to Rule on Whether Suits Under the Law, Targeting Robo-Calls and Unwanted Faxes, Can Be Brought in Federal Court, Nat'l L.J. 9 (Jan. 16, 2012).
- 113. Can You Hear Me Yet? The Right of Irritated Consumers to Sue in Federal Court Under the Telephone Consumers Protection Act, 3 Preview of Supreme Court Cases 104 (Nov. 28, 2011)(Mims v. Arrow Financial Services).
- 114. "Wal-Mart" Notable for Rulings on Evidentiary Issues, Nat'l L. J. 14 (Aug. 15, 2011).
- 115. Class Action Roundup: A Little Something for Everyone, 8 ABA Preview of Supreme Court Cases 330 (August 6, 2011).
- 116. Argument Recap: "A Crazy Way to Run a Railroad?," SCOTUSblog (April 27, 2011) at http://www.scotusblog.com/2011/04/argument-recap-a-crazy-way-to-run-a-railway?
- 117. Will the Fifth Circuit Get to Keep Its Oscar? The Fraud-on-the-Market Presumption in Certification of a Securities Fraud Class Action, 7 ABA Preview of Supreme Court Cases 284 (April 18, 2011)(Erica P. John Fund v. Halliburton Co.).
- 118. What Wal-Mart Case Means for Women, CNN.com Opinion (March 30, 2011) at http://www.cnn.com/2011/OPINION/03/30/mullenix.class.action.walmart/index.html ?iref=allsearch
- 119. Walmart Women Watch and Wait, The Guardian U.K. (March 30, 2011) at http://www.guardian.co.uk/commentisfree/cifamerica/2011/mar/30/walmart-women-sex-bias-class-action
- 120. Opinion Analysis: Third-Party Beneficiaries Cannot Sue Drug Manufacturers for Over-

Charging, SCOTUSblog (March 31, 2011) at http://www.scotusblog.com/2011/03/opinion-analysis-third-party-beneficiaries-cannot-sue-drug-manufacturers-for-over-charging

- 121. Attention All Female Workers: Will Wal-Mart Be Able to Roll-Back Class Certification of the Largest Employment Discrimination Case Ever, 6 ABA Preview of Supreme Court Cases 249 (March 21, 2011)(Wal-Mart Stores, Inc. v. Dukes).
- 122. The Practice: A Second Bite at the Certification Apple in State Court? Justices Will Weigh Whether State Litigants May Be Prevented From Relitigating Once a Federal Court Denies Certification, N.L.J. 12 (March 21, 2011).
- 123. Federal Courts: Restraining Multiple Bites at the Class Certification Apple: May a Federal Court Enjoin a State Court from Relitigating a Class Certification Denial?, 4 ABA Preview of Supreme Court Cases 181 (Jan. 2011)(Smith v. Bayer Corp.).
- 124. Federal Civil Procedure: Outsourcing Liability: General and Specific Jurisdiction over Foreign National Corporations in American State Courts, 4 ABA Preview of Supreme Court Cases 174 (Jan. 2011)(Goodyear v. Luxembourg Tires, S.A. v. Brown and J. McIntyre Machinery, Ltd. v. Nicastro, et ux).
- 125. Federal Courts: Where a Federal Statute is Silent, Do Third-Party Beneficiaries of a Government Contract Have a Right to Sue?, 4 ABA Preview of Supreme Court Cases 170 (Jan. 2011)(Astra USA, Inc. v. County of Santa Clara, Cal.).
- 126. Federal Civil Procedure: To Everything There is a Season: Bringing a Timely Appeal from the Denial of a Summary Judgment Motion, 2 ABA Preview of Supreme Court Cases 52 (Nov. 2010)(Ortiz v. Jordan).
- 127. The Practice: A Recent Blow for Third-Party-Payor Plaintiffs, Nat'l. L. J. 32 (October 18, 2010).
- 128. The Practice: Federal Class Actions Don't Yield to State Laws, Nat'l. L. J. 18 (May 31, 2010).
- 129. Civil Procedure: The Name Game: When Is a Mistake a Mistake? Parsing Rule 15 on the Relation-Back Doctrine of Amendments to Complaints, 7 ABA Preview of Supreme Court Cases 326 (April 19, 2010) (Krupski v. Costa Crociere S.p.A).
- 130. The Practice: High Court to Decide Whether a Federal Diversity Court Can Hear Case That Would Be Barred in State Court, Nat'l. L.J. 14 (Dec. 14, 2009).
- 131. Are All National Corporations Now Californians? Defining a Corporation's "Principal Place of Business" for Diversity of Citizenship Purposes, 2 ABA Preview of Supreme Court Cases 83 (Nov. 2, 2009)(Hertz Corp. v. Friend, et al.).
- 132. May a Federal Court Dismiss a Class Action That Is Barred by State Law, or Does Federal Rule of Civil Procedure 23 Prevail?, 2 ABA Preview of Supreme Court Cases 72 (Nov. 2, 2009)(Shady Grove Orthopedic Associates v. Allstate Ins. Co).

- 133. The Practice: Reversing a Denial of Class Certification in a Rare Event, 11th Circuit Found That Lower Court Erred and Case With RICO Claims Should Proceed, Nat'l L.J. 14 (July 27, 2009).
- 134. Complex Litigation Class Action Waivers, Nat'l L.J. 23 (April 6, 2009).
- 135. Complex Litigation Class Certification, Nat'l L.J. 13 (Jan. 26, 2009).
- 136. Punitive Damages Redux: How Many Times Does Oregon Get to Punish Big Tobacco, 3 ABA Preview of United States Supreme Court Cases 172 (Dec. 1, 2008)(Williams v. Philip Morris USA).
- 137. Complex Litigation Mortgage Rescission, Nat'l L.J. 13 (Nov. 10, 2008).
- 138. Complex Litigation –CAFA and the Eleventh Amendment, Nat'l L.J. 12 (Sept. 1, 2008).
- 139. Complex Litigation Antitrust Class Standing, Nat'l L.J. 13 (June 23, 2008).
- 140. Complex Litigation Tobacco Light Action Dims, Nat'l L.J. 13 (April 14, 2008).
- 141. *Complex Litigation CAFA Jurisdiction*, Nat'l L.J. 13 (Jan. 28, 2008).
- 142. Complex Litigation CAFA and Coupons, Nat'l L.J. 24 (Nov. 11, 2007).
- 143. Complex Litigation The Costs of CAFA, Nat'l L.J. A13 (Aug. 27, 2007).
- 144. Complex Litigation Troubling Twombly, Nat'l L.J. 13 (June 11, 2007).
- 145. *Complex Litigation Presumptions of Reliance*, Nat'l L.J. 18 (April 2, 2007).
- 146. Complex Litigation CAFA Cacaphony, Nat'l L.J. 13 (January 22, 2007).
- 147. Complex Litigation CAFA Exceptions, Nat'l L.J. 12 (October 23, 2006).
- 148. Complex Litigation CAFA "Carve-Outs" Nat'l. L.J. 12 (September 4, 2006).
- 149. *Complex Litigation CAFA Appeals*, Nat'l L.J. 12 (July 3, 2006).
- 150. Complex Litigation CAFA Mass Actions, Nat'l L.J. 12 (May 1, 2006).
- 151. Complex Litigation CAFA: The \$5 Million Question, Nat'l L.J. 12 (Feb. 27, 2006).
- 152. Should Federal Courts Continue to Apply the "Probate Exception" to their Jurisdiction?, 5 Preview of Supreme Court Cases 274 (February 2006)(Marshall v. Marshall).
- 153. Complex Litigation CAFA Proof Burdens, Nat'l L.J. 12 (Dec. 19-26, 2005).
- 154. The Award of Attorney Fees After Remand: Should the Court Adopt a Bright-Line

- Rule?, 2 Preview of Supreme Court Cases 78 (Oct. 2005)(Martin et ux. v. Franklin Capital Corp. et al.).
- 155. Complex Litigation CAFA and Retroactivity, Nat'l L.J. 12 (Oct. 17, 2005).
- 156. Complex Litigation Class Actions (Supplemental Jurisdiction), Nat'l L.J. 11 (August 15, 2005).
- 157. Complex Litigation Work Product Protection, Nat'l L. J. 12 (June 13, 2005).
- 158. *Complex Litigation The Maturity Factor*, Nat'l L.J. at 12 (April 11, 2005).
- 159. Class Actions: Fairness Act's Effect on Mass Torts, N.Y.L.J. (March 31, 2005)(with Paul Rheingold).
- 160. Impact of the Class Action Fairness Law, N.Y.L.J. 5 (March 3, 2005)(with Paul D. Rheingold).
- 161. Federal Court Jurisdiction Zahn Revisited: Supplemental Jurisdiction Over Individual Claims to Satisfy Federal Diversity Jurisdiction, 5 Preview of United States Supreme Court Cases 263 (Feb. 22, 2005)(Exxon Corp. v. Allapattah Services, Inc. and Ortega et al. v. Star-Kist Foods, Inc.).
- 162. Federal Court Jurisdiction Parallel Federal and State Court Proceedings: The Rooker-Feldman Doctrine and Principles of Intersystem Comity, 5 Preview of United States Supreme Court Cases 290 (Feb. 22, 2005)(Exxon Mobil Corp. et al. v. Saudi Basic Industries Corp.).
- 163. *Complex Litigation The New Rule 23(g)*, Nat'l L.J. 12 (Feb. 7, 2005).
- 164. *Complex Litigation RICO Class Actions*, Nat'l L.J. 10 (November 29, 2004).
- 165. Complex Litigation The 'Zahn' Morass, Nat'l L.J. 14 (September 27, 2004).
- 166. *Complex Litigation To (b)(2) or Not To (b)(2)?*, Nat'l L.J. 12 (July 26, 2004).
- 167. Complex Litigation The Texas Touchdown, Nat'l L. J. 13 (May 24, 2004).
- 168. Complex Litigation Negative Value Suits, Nat'l L.J. 11 (March 22, 2004).
- 169. Federal Jurisdiction The Deadline for Determining Diversity: A World Without End, or Atlas Shrugged?, 5 Preview of United States Supreme Court Cases 240 (Feb. 16, 2004)(Grupo Dataflux v. Atlas Global).
- 170. Complex Litigation Abandoning Claims in Class Actions, Nat'l. L.J. 11 (Jan. 19, 2004)
- 171. Complex Litigation Class Action Superiority, Nat'l. L.J. 27 (Nov. 17, 2003).
- 172. Complex Litigation Inroads on "Eisen," Nat'l. L.J. B13 (Sept. 22, 2003).

- 173. Complex Litigation Standing, Nat'l. L.J. B (June 16, 2003).
- 174. Class Actions: Federal Arbitration Preemption or State Contract Law: When May An Arbitration Be Conducted on a Classwide Basis?, 7 Preview of United States Supreme Court Cases 419 (April 18, 2003)(Green Tree Financial Corp. v. Bazzle).
- 175. Complex Litigation Revisiting Agent Orange, Nat'l. L.J. B7 (April 7, 2003).
- 176. Class Actions: Apocalypse Forever: Revisiting the Adequacy of the Agent Orange Settlement, Twenty-Five Years Later, 5 Preview of United States Supreme Court Cases 274 (February 21, 2003)(In re Agent Orange Prods. Liab. Litig., Dow Corning v. Stephenson).
- 177. *Master Class Class Actions II*, Nat'l. L.J. B7 (January 13, 2003).
- 178. *Master Class Class Actions I*, Nat'l. L.J. B9 (November 4, 2002).
- 179. Class Actions: Let Us Count the Ways: How Should the Amount in Controversy Be Calculated in Diversity Class Actions?, 1 Preview of United States Supreme Court Cases 49 (Sept. 30, 2002)(Ford Motor Company and Citibank (South Dakota) v. McCauley).
- 180. Class Actions: Is the All Writs Act the Caulking Gun for Dual-System Class Action Litigation?, 1 Preview of United States Supreme Court Cases 44 (Sept. 30, 2002)(Syngenta Crop Protection, Inc. v. Henson).
- 181. *Master Class Arbitration Clauses II*, Nat'l. L.J. B8 (August 26, 2002).
- 182. Master Class Arbitration Clauses, Nat'l. L.J. B9 (June 3, 2002).
- 183. Class Actions: The Party's Over: Do Spurned Class Action Objectors Have Appellate Rights to Protest?, 6 Preview of United States Supreme Court Cases 298 (March 13, 2002)(Devlin v. Scardelletti).
- 184. *Master Class Dispositive Motions*, Nat'l L.J. B11 (March 11, 2002).
- 185. *Master Class Rule Amendments*, Nat'l L.J. B11 (January 7, 2002).
- 186. Master Class Class Communications, Nat'l L.J. B11 (October 15, 2001).
- 187. *Master Class Making Contact*, Nat'l L.J. B11 (July 23, 2001).
- 188. Federal Practice: Complex Litigation–Rule 23(f) Appeals, Nat'l L.J. A11 (May 14, 2001).
- 189. Federal Practice: Complex Litigation—Issues of Adequacy, Nat'l L.J. A17 (Jan. 15, 2001).
- 190. Federal Practice: Complex Litigation—Primary Jurisdiction, Nat'l L.J. A16 (Sept. 25,

- CaSes#8220212nd-1020213m2ent: 000311133311659720-2 Pāġed 109611/107at@ fāġed: 008/09/2019 2000).
- 191. Federal Practice: Complex Litigation—Certification Burdens, Nat'l L.J. A14 (July 3, 2000).
- 192. Federal Practice: Complex Litigation—Defendant Class Actions, Nat'l L.J. A18 (April 10, 2000).
- 193. Federal Practice: Complex Litigation—Punitive Damage Class Actions, Nat'l L.J. A18 (January 24, 2000).
- 194. Federal Practice: Complex Litigation–Multistate Actions, Nat'l L.J. B18 (October 18, 1999).
- 195. Supreme Court Review: Court Nixes Latest Settlement Class, Nat'l L.J. B12 (August 16, 1999).
- 196. Federal Practice: Complex Litigation—A New Hybrid, Nat'l L.J. B24 (August 9, 1999).
- 197. Federal Practice: Complex Litigation—A Tort 'Doorstop', Nat'l L.J. B10 (June 21, 1999).
- 198. Federal Practice: Complex Litigation—Dueling Class Actions, Nat'l L.J. B18 (April 26, 1999).
- 199. Federal Practice: Complex Litigation–Medical Monitoring, Nat'l L.J. B15 (March 29, 1999).
- 200. Federal Practice: Complex Litigation—The Art of Intervening, Nat'l L.J. B17 (Jan. 18, 1999).
- 201. One Free Shot: Must an Objector to a Shareholder's Derivative Settlement Intervene to be Heard on Appeal?, 4 Preview of Supreme Court Cases 179 (December 1998)(California Public Employees' Retirement v. Felzen).
- 202. Asbestos at the Crossroads: Will a Mandatory Class Pass Muster?, 3 Preview of Supreme Court Cases 118 (December 1998)(Ortiz v. Fibreboard).
- 203. Federal Practice: Complex Litigation—Settlement Class at Issue in Ortiz Appeal, Nat'l L.J. B10 (Nov. 16, 1998).
- 204. Federal Practice: Complex Litigation–5th Circuit Rejects Trial Plan for Asbestos Class, Nat'l L.J. B5 (Sept. 21, 1998).
- 205. Supreme Court Review: Court Preserves the Privileges of the Dead, Nat'l L.J. B13 (August 10, 1998).
- 206. Federal Removal, the Eleventh Amendment, State Remand, and Other Exercises in Futility, 7 Preview of Supreme Court Cases 447 (April 1998)(Wisconsin Dept. of

- Corrections v. Schacht).
- 207. Getting Out of Dodge: May Defendants Remove a State Case to Federal Court Based Solely on a Federal Preclusion Defense?, 4 Preview of Supreme Court Cases 219 (December 1997)(Rivet v. Regions Bank of Louisiana).
- 208. Supreme Court Review: Court Settles Settlement Class Issue, Nat'l L.J. B12 (August 11, 1997).
- 209. Must Settlement Classes Satisfy All The Requirements of Litigation Classes?, 5 Preview of Supreme Court Cases 296 (February 1997)(Amchem Products, Inc. v. Windsor).
- 210. Do Mandatory Monetary Settlement Classes Violate Due Process?, 4 Preview of Supreme Court Cases 221 (December 1996)(Adams v. Robertson).
- 211. Podium: High Court Should Review Mass Torts, Nat'l L.J. A19 (September 30, 1996).
- 212. Transferring a State Court Case to Federal Court: When Must the Grounds for Transfer Exist? 2 Preview of Supreme Court Cases 87 (October 1996)(Caterpillar, Inc. v. Lewis).
- 213. Supreme Court Review: New Opinions Defer to State Law, Nat'l L.J. C5 (July 29, 1996).
- 214. Declining to Decide: Is a Federal Court's Decision to Send a Case Back to State Court in Deference to Ongoing State Proceedings Immediately Appealable? 5 Preview of Supreme Court Cases 224 (February 1996)(Quackenbush v. Allstate Insurance Company).
- 215. Enforcing Class Settlements: Can Federal Courts Refuse to Give Effect to State Court Class Settlements That Release Exclusively Federal Claims? 3 Preview of Supreme Court Cases 108 (November 1995)(Matsushita Electric Industrial Co., Ltd. v. Epstein).
- 216. Punitive Damages Revisited: May Punitive Damages Be Imposed for Out-of-State Conduct, and What Punitive Damages Are Excessive?, 1 Preview of United States Supreme Court Cases 37 (September 1995)(BMW v. Gore).
- 217. INDIVIDUAL JUSTICE IN MASS TORT LITIGATION: THE EFFECT OF CLASS ACTIONS, CONSOLIDATIONS, AND OTHER MULTIPARTY DEVICES, 5:6 Law and Politics Review 173 (June 1995)(review of Jack B. Weinstein's book of this title).
- 218. Federal Abstention in Declaratory Judgment Actions, 6 Preview of United States Supreme Court Cases 275 (March 1995)(Wilton v. Seven Falls Company).
- 219. Supreme Court Review: Court Sets New Rules in Key Areas, Nat'l L.J. C7 (Aug. 15, 1994).
- 220. Does The Claim Not To Be Tried Support Immediate Appeal of an Order That Sets Aside a Settlement Agreement?, 5 Preview of United States Supreme Court Cases 153

- (Feb. 1994)(Digital Equipment Corporation v. Desktop Direct, Inc.).
- 221. The Inherent Jurisdiction of Federal Courts to Enforce Settlement Agreements in Dismissed Cases, 5 Preview of United States Supreme Court Cases 174 (Feb. 1994)(Kokkonen v. Guardian Life Insurance Co.).
- 222. Mandatory Class Actions That Include Monetary Claims: Do Absent Class Members Have a Due Process Right to Opt Out?, 5 Preview of United States Supreme Court Cases 157 (Feb. 1994)(Ticor Title Insurance Co. v. Brown).
- 223. Litigation and Inequality, 75 Social Sci. Q. 235 (1994)(review of Edward A. Purcell Jr., LITIGATION AND INEQUALITY: FEDERAL DIVERSITY JURISDICTION IN INDUSTRIAL AMERICA (1992)).
- 224. Clarifying the Distinction Between Civil and Criminal Contempt: Problems of Prospective Penalties and Excessive Fines, 3 Preview of United States Supreme Court Cases 87 (Nov. 1993)(United Mine Workers v. John L. Bagwell, et al.).
- 225. Podium: Should Congress Decide Civil Rules?, 16 Nat'l L.J. 15 (Nov. 22, 1993).
- 226. Supreme Court Review: Questions Linger on Punitives and Evidence, Nat'l L.J. S4 (Aug. 23, 1993).
- 227. Supreme Court Review: Civil Rule Revisions A Mixed Bag, Nat'l L.J. S14 (Aug. 23, 1993).
- 228. Double-Dipping Against Uncle Sam: Suing the Federal Government in Multiple Courts at the Same Time, 7 Preview of United States Supreme Court Cases 304 (March 1993)(Keene Corp. v. United States).
- 229. To Declare or Not To Declare: The Tension Between the Declaratory Judgment Act and Federal Abstention Doctrine, 7 Preview of United States Supreme Court Cases 290 (March 1993)(Granite State Insurance Co. v. Tandy Corp.).
- 230. The State's Right to Be Free From Trial: Is The Denial of Sovereign Immunity Immediately Appealable?, 1 Preview of United States Supreme Court Cases 4 (October 1992)(Puerto Rico Aqueduct and Sewer Authority v. Metcalf & Eddy).
- 231. Supreme Court Review: Federal Jurisdiction Is Addressed, Nat'l L.J. S4 (Aug. 31, 1992).
- 232. Federal Courts and Family Law: Will the Court Open Federal Court Doors to Domestic Relations Disputes? 9 Preview of United States Supreme Court Cases 314 (May 1992)(Ankenbrandt v. Richards).
- 233. Corporate Charters and the Problem of Talismanic Federal Question Jurisdiction, 7 Preview of United States Supreme Court Cases 243 (March 1992)(S.B. and J.G. v. The American National Red Cross).
- 234. On Being in the Wrong Place at the Wrong Time: Wrongful Removal and Rule 11, 4

- Preview of United States Supreme Court Cases 1 (January 1992)(Willy v. The Coastal Corporation).
- 235. The Collision of Personal Injury and State Action: Are Private State Torts Actionable Under the Federal Civil Rights Laws?, 3 Preview of United States Supreme Court Cases 88 (November 1991)(Collins v. City of Harker Heights).
- 236. Suing State Officials Under the Civil Rights Act: When Is a Person Not a Person?, 2 Preview of United States Supreme Court Cases 48 (October 1991)(Hafer v. Melo).
- 237. Supreme Court Review: Forum-Shoppers Should Discover a Wider Market, 13 Nat'l. L.J. S12 (Aug. 19, 1991).
- 238. Supreme Court Review: Rule 11 Decisions Targeted Clients, Not Just Lawyers, 13 Nat'l. L.J. S9 (Aug. 19, 1991).
- 239. Rule 11 Report: The Undefined Professional Responsibility of Clients: The Furthest Reach of Rule 11, 4 Inside Litigation 9 (April 1991).
- 240. The \$1.5 Million Sanction: Testing the Inherent Power of Federal Courts to Sanction Parties by Awarding Attorney Fees, 8 Preview of United States Supreme Court Cases 244 (April 1991)(Chambers v. Nasco, Inc.).
- 241. Fee Simple: Is The Pro Se Attorney Entitled to Attorneys' Fees?, 8 Preview of United States Supreme Court Cases 241 (April 1991)(Kay v. Ehrler and the Kentucky Board of Elections).
- 242. With Malice Towards One: The "Heightened" Pleading of Constitutional Torts Against Federal Officials, 8 Preview of United States Supreme Court Cases 258 (April 1991)(Siegert v. Gilley).
- 243. If They Could Sue Me Now: Minimum Contacts on the Love Boat, 5 Preview of United States Supreme Court Cases 135 (January 1991)(Carnival Cruise Lines, Inc. v. Shute).
- 244. Sanctioning A Party Under Rule 11: To What Standard of Conduct Should A Client Be Held?, 4 Preview of United States Supreme Court Cases 100 (December 1990)(Business Guides, Inc. v. Chromatic Communications).
- 245. Erie on Appeal: Deferential or De Novo Review? 4 Preview of United States Supreme Court Cases 97 (December 1990)(Salve Regina College v. Russell).
- 246. Supreme Court Review: Justices Clarified Courts' Role On Sanctions and Attorney Fees, Nat'l. L. J. 25 (Sept. 10, 1990).
- 247. The Case of the Lawyer Who Filed Too Soon, 2 Preview of United States Supreme Court Cases 34 (October 1990)(FirsTier Mortgage Co. v. Investors Mortgage Insurance Co.).
- 248. The Case of the Lawyer Who Filed Too Late, 1 Preview of United States Supreme

- Court Cases 5 (October 1990)(Irwin v. Veterans Administration).
- 249. Supreme Court Review: Badly Fractured Decisions Muddy Cases on Venue, 12 Nat'l. L. J. S9 (Aug. 13, 1990).
- 250. Interstate Compacts and the Eleventh Amendment, 9 Preview of United States Supreme Court Cases 304 (April 1990)(Port Authority Trans-Hudson Corp. v. Feeney).
- 251. The Reach of Rule 11: Sanctions, Appeals, and Voluntary Dismissals, 9 Preview of United States Supreme Court Cases 314 (April 1990)(Cooter & Gell v. Hartmarx Corp.).
- 252. Back to the Future: A \$16 Million Problem in the Retroactive Award of Postjudgment Interest, 7 Preview of United Sates Supreme Court Cases 210 (February 1990)(Kaiser Aluminum & Chemical Corp. v. Bonjorno).
- 253. Court-Facilitated Notice in Age Discrimination Class Actions, 1 Preview of United States Supreme Court Cases 26 (October 1989)(Hoffman-La Roche, Inc. v. Sperling).
- 254. Did Congress Mean What It Didn't Say About Reverse Direct Action Lawsuits?, 2
 Preview of United States Supreme Court Cases 50 (October 1989)(Northbrook
 National Insurance Co. v. Brewer).
- 255. Is A Trial Court's Decision Not To Enforce A Forum Selection Clause Immediately Appealable?, 13 Preview of United States Supreme Court Cases 388 (April 1989)(Lauro Lines v. Chasser).
- 256. Pendent Parties Under The Federal Torts Claim Act: The Supreme Court, Round Two, 11 Preview of United States Supreme Court Cases 301 (March 1989)(Finley v. United States).
- 257. The Post Judgment Request For Prejudgment Interest: When Is A Final Decision Final?, 6 Preview of United States Supreme Court Cases 153 (December 1988)(Osterneck v. Ernst and Whinney).
- 258. Suing On Borrowed Time: The Appropriate Statute of Limitations in Federal Civil Rights Cases, 3 Preview of United States Supreme Court Cases 75 (October 1988)(Owens & Lessard v. Okure).
- 259. Tuckered Out In Federal Court: Splitting Claims Against The Government, 14 Preview of United States Supreme Court Cases 422 (May 1988)(Bowen v. Commonwealth of Massachusetts).
- 260. Desperately Seeking Texas: Federal Injunction of the World's Forum of Last Resort, 12 Preview of United States Supreme Court Cases 354 (April 1988)(Choo v. Exxon Corp.).
- 261. Review of Forum Non Conveniens and Immunity From Civil Suit, 11 Preview of United States Supreme Court Cases 323 (March 1988) (Van Cauwenberghe v. Biard).

- 262. After Default: What State Process Is Due?, 5 Preview of United States Supreme Court Cases 147 (December 1987)(Peralta v. Heights Medical Center).
- 263. Review of Abstention: The Appealability of A Refusal To Refuse Jurisdiction, 5 Preview of United States Supreme Court Cases 135 (December 1987)(Gulfstream Aerospace Corp. v. Mayacamas).
- 264. When Federal Courts Should Abstain: Should State Grand Juries Be Getting Any Younger?, 2 Preview of United States Supreme Court Cases 53 (October 1987)(Deakins v. Monaghan).
- 265. The New Untouchables: Subjecting Foreign Corporations to Federal Question Jurisdiction, 1 Preview of United States Supreme Court Cases 18 (October 1987)(Omni Capital International v. Wolff).
- 266. A Tull Tale of More Right Versus Less Filling: The Right to Trial by Jury in Federal Civil Penalty Cases, 7 Preview of United States Supreme Court Cases 188 (January 1987)(Tull v. United States).
- 267. Federal Abstention of the Fourth Kind: The Judicial Administration Exception, 1 Preview of United States Supreme Court Cases 20 (1985)(Lake Coal Company v. Roberts & Schaefer Company).

LECTURES, SPEECHES & INVITED CONFERENCE PARTICIPATION

- 1. Speaker and panelist, Section on Litigation, Association of American Law Schools Annual Meeting 2017, San Francisco (January 6, 2017)("MDL Problems: Policing MDL Non-Class Aggregate Settlements Through the All Writs Act").
- 2. Commentator and panelist, Conference on EU Collective Redress Project, Wolfson College, Oxford University, U.K. (Dec. 12-13, 2016).
- 3. Endowed Lecture, the Judge Lloyd D. George Lecture on the Judicial Process, the University of Nevada Las Vegas William S. Boyd School of Law (Nov. 3, 2016) ("Empowering Judicial Oversight of MDL Non-Class Aggregate Settlements").
- 4. Speaker, International Conference on the Resolution of Mass Disputes, sponsored by the University of Haifa, Israel (Nov. 26-27, 2015)("The End of the American *Shangri-Law*: Closing the Courts to Transnational Collective Actions;" and "Mediating and Arbitrating Collective Settlements").
- 5. Keynote Speaker, Class Action Symposium, 14th Annual National Consumer Law Center Conference (sponsored by the National Center for Consumer Law, Tampa, Florida, November 8-9, 2014).
- 6. Speaker, VII International Congress of Procedural Law (sponsored by the Universidad de Medellin, Colombia, October 17-18, 2014).

- 7. Speaker, Symposium, Forum Selection Clauses After *Atlantic Marine* (sponsored by the University of California, Hasting College of Law, San Francisco, September 19, 2014).
- 8. Speaker, Complex Litigation Symposium on the BP Gulf Oil Spill (sponsored by the Stanford Law School Journal of Complex Litigation, Stanford University Law School, Palo Alto, May 8-9, 2014).
- 9. Speaker, The Clifford Symposium: Judge Jack Weinstein's Impact on Civil Justice in America (sponsored by the DePaul University College of Law, April 24, 2014, Chicago Illinois).
- 10. Speaker, Symposium in Honor of Professor Stephen Subrin (co-sponsored by Northeastern University Law School and the University of Las Vegas, Nevada Law School, Boston, Massachusetts, April 11-12, 2014).
- 11. Speaker, American Bar Association Litigation Section Annual Conference, "Moldy or Not The Impact of Comcast on the Future of Class Action Litigation, Standing, and Issues Classes (Sponsored by the ABA Litigation Section, Scottsdale, Arizona, April 9-11, 2014).
- 12. Speaker, Randolph W. Thrower Symposium, "American Dispute Resolution 2020: The Death of Group Vindication of the Law?," (sponsored by the Emory University School of Law, February 6, 2014, Atlanta, Georgia).
- 13. Faculty member, The 17th Annual American Bar Association Class Action Institute, "Standing and Class Ascertainability," (October 23-24, 2013)(Boston, Massachusetts).
- 14. Speaker, "Private and Government-Related Consumer Litigation," Federal Bar Association 2013 Annual Meeting and Convention (September 26-28, 2013, San Juan, Puerto Rico).
- 15. Invited conferee, Innovation Summit, sponsored by West Academic and Foundation Press Publishing (July 8-9, 2013, Minneapolis, Minnesota).
- 16. Distinguished Visiting Professor Lecture, Principles of Civil Procedure, "Aggregate Litigation and the Death of Democratic Dispute Resolution," (Oxford University U.K. May 7, 2013).
- 17. Colloquium presentation, American Class and Aggregate Litigation, the Oxford Centre for Socio-Legal Studies (Oxford University U.K. May 9, 2013).
- 18. Speaker, "Mass Tort Theory," at Symposium on Perspectives on Mass Tort Litigation, sponsored by Widener Law School Law Review (Widener Law School, Harrisburg, Pennsylvania, April 16, 2013).
- 19. Speaker, "The Supreme Court's Repudiation of Classwide Arbitration," at Symposium on Class Action Litigation, sponsored by the University of Michigan Journal of Law Reform (University of Michigan Law School, March 15-16, 2013).
- 20. Speaker, "Putting Proponents to Their Proof: Evidentiary Rules at Class Certification," at Symposium, The Future of Class Actions sponsored by the James F. Humphreys Center for Complex Litigation Public Justice, and the Committee to Support the Antitrust

Laws (George Washington University Law School, March 6-7, 2013).

- 21. Speaker, "Class Actions Shrugged: Mass Actions and the Future of Aggregate Litigation," AALS Section on Litigation and Section on Civil Procedure program: "The Class Action Fairness Act of 2005: Perspectives and Predictions" (New Orleans, Louisiana, January 5, 2013).
- 22. Speaker and Commentator, Fifth Annual Junior Faculty Federal Courts Workshop, sponsored by the Institute for the Bill of Rights, William and Mary College of Law (October 25-27, 2012).
- 23. Speaker, "The Political Theory of Class Actions: In Honor of Professor Martin Redish," at "Festschrift in Honor of Professor Martin Redish" (Northwestern University School of Law (Chicago, Illinois March 30, 2012).
- 24. Speaker, Program in Honor of Professor Edward Cooper, Reporter, Advisory Committee on Civil Rules (Meeting of the Advisory Committee on Civil Rules, Ann Arbor Michigan, March 22-23, 2012).
- 25. Speaker, "A Critique of Fund Approaches to Resolving Mass Tort Litigation," at Conference on Mass Torts in Federal Courts, sponsored by the Charleston School of Law (Charleston, South Carolina Feb. 23, 2012).
- 26. Speaker, "The BP MDL: Tort Litigation Alternatives to Fund Remediation for Mass Tort Disasters," at AALS Section on Litigation program: "Large Scale Litigation Issues: Class Actions and Mass Tort Cases in 2012 and Beyond," (Washington D.C. Jan. 6, 2012).
- 27. Speaker, Tarlton Talks: "A Tale of Two Funds Comments on the World Trade Center Victims' Compensation Fund and the Gulf Coast Claims Facility," University of Texas School of Law (Nov. 9, 2011).
- 28. Speaker, "The Twenty-Fifth Anniversary of the Supreme Court's Summary Judgment Trilogy at Twenty-Five: Much Ado About Nothing," at Colloquium: "The 25th Anniversary of the Summary Judgment Trilogy: Reflections on Summary Judgment," Seattle University School of Law (Seattle, Washington Sept. 15-16, 2011).
- 29. Speaker and panelist, "Judge Jack Weinstein's Contributions to Mass Tort Litigation," program on "The Jurisprudence of Judge Jack Weinstein," sponsored by the New York City Bar Association (New York City, Sept. 13, 2011).
- 30. Speaker and panelist, "The Lessons of 9/11 for Mass Tort Litigation," program sponsored by the Cardozo Law School (New York City, Sept. 12, 2011).
- 31. Speaker, The Implications of the Supreme Court's Wal-Mart Decision for Class Action Litigation, University of Texas Supreme Court Round-Up Colloquium, September 2, 1011.
- 32. Speaker, Of Dubious Doctrines: The Quasi Class Action, at Symposium: "The Principles of Aggregate Litigation: CAFA, PSLRA, and Beyond," The University of Cincinnati College of Law (Cincinnati, Ohio April 1, 2011).

- 33. Speaker, The BP Oil Spill and the Future of Mass Tort Litigation, 58th Annual Mineral Law Institute (Louisiana State University, Baton Rouge, Louisiana, March 24, 2011).
- 34. Speaker, Seminar on Consumer Law, sponsored by the Centro de Estudios de Direito Economico e Social (CEDES)(São Paulo, Brazil, Nov. 17 18, 2010).
- 35. Speaker, "Big Topics, Shrinking Credits," Workshop on Civil Procedure, Association of American Law Schools (New York City, June 12, 2010).
- 36. Speaker and Program Moderator, "How Much Evidence Is Enough for Class Certification?" American Bar Association, Litigation Section Mid-year Meeting (New York City, April 23, 2010).
- 37. Speaker, The Case For Enhanced Summary Judgment Prior to Class Certification, The Searle Center for Law and Economic Growth at Northwestern University School of Law, "Finding the Balance Between Benefit and Cost: A Public Policy Roundtable on the Federal Rules of Civil Procedure," April 21 and 22, 2010 in Chicago).
- 38. Speaker, "Statutory and Contractual Limitations on Class Actions," Complex Litigation Conference, George Washington University Law School (Washington D.C. March 12, 2009).
- 39. Speaker, "The Case for Summary Judgment Prior to Class Certification," Annual Meeting of the Association of American Law Schools, Section on Litigation Program on Summary Judgment (New Orleans, Louisiana January 9, 2010).
- 40. Speaker, "Nine Lives: The Punitive Damage Class," at Symposium, "Aggregate Litigation Since *Ortiz v. Fibreboard*," sponsored by the University of Kansas Law Review (Lawrence, Kansas October 29-20, 2009).
- 41. Speaker, "American Exceptionalism and The Theory of Convergence: Are We There Yet?," at the Toronto Conference on "The Future of Categories," sponsored by the International Association of Procedural Law Toronto, Canada June 3-5, 2009).
- 42. Panelist, "*Hydrogen Peroxide's* Aftermath: New Restrictive Directives in Class Certification (Is It Applicable in All Class Actions?)," (Live Telephone Seminar /Live Audio Webcast sponsored by the American Law Institute/American Bar Association, Thursday, April 23, 2009).
- 43. Speaker, "Trends in Aggregate Litigation," Future Litigation Risks Conference, sponsored by Altria Group, Inc. (Washington D.C. April 9-10, 2009).
- 44. Panelist, "Litigating and Trying Complex Civil Antitrust Class Actions, Part Four: Class Certification," sponsored by the American Bar Association's Section of Antitrust Law, Civil Practice and Procedure and Trial Practice Committees (via teleconference Feb. 17, 2008).
- 45. Speaker, "The Politics of Pre-emption," Symposium, "Access to the Courts in the

- Roberts Era," Case Western Reserve Law Review (Cleveland, Ohio January 30, 2009).
- 46. Speaker, "Class Action Settlements in the United States," Conference on Comparative Collective or Class Action Settlements, sponsored by the Università degli Studi di Milano (Milan, Italy, September 26-27, 2008).
- 47. Speaker, Supreme Court Roundup, "The Supreme Court Speaks on Punitive Damages and Federal Pre-emption of State Law Tort Claims" (commenting on *Exxon Mobil v. Baker* and *Reigel v. Medtronic* (2007-08 Term)(University of Texas Law School (September 4, 2008).
- 48. Speaker, "Current Developments in Class Action Litigation and Antitrust Class Action Litigation" (in-house CLE program, Baker & McKenzie, Dallas, Texas and broadcast throughout Baker & McKenzie affiliate offices, June 2008).
- 49. Speaker, "Asbestos Litigation and Theories of Justice," Perspectives on Asbestos Litigation Symposium, sponsored by the Southwestern Law Review, Southwestern Law School (Los Angeles, California January 18, 2008).
- 50. Speaker, Speaker, Litigation and Resolution of Complex Claims, "Class Action Fairness Act An Update on CAFA" sponsored by Thomson-West Legalworks (San Francisco, California, November 1, 2007).
- 51. Speaker, "New Trends in Standing and Res Judicata in Collective Suits, Report of the General Reporter," XIII World Congress of Procedural Law (Salvador, Brazil, September 19, 2007).
- 52. Speaker, "The Politics of Class Actions," sponsored by the Section on Civil Procedure, The American Association of Law Schools (Washington D.C., January 4, 2007).
- 53. Speaker, Annual Conference on Tort Liability Regimes, sponsored by Munich Re (Munich, Germany, October 25-27th, 2006).
- 54. Speaker, Corporate Counsel Symposium, Federation of Defense and Corporate Counsel Annual Meeting (Chicago, September 28, 2006); "Update on CAFA Issues and Problems."
- 55. Speaker, The Class Action Fairness Act: One Year Later, sponsored by Thomson-West (New York City, June 27, 2006); speaker on "Understanding the Statute: CAFA Basics;" "Mass Actions": Have 'Mass Actions" Been Subject to Removal?".
- 56. Speaker and panelist: "Looking Beyond the Pleadings in Class Certification Motions," ABA-CLE Teleconference and Audio Webcast (June 13, 2006); speaker on *Eisen* rule and class certification hearings.
- 57. Speaker and panelist, Civil Practice Litigation Techniques in Federal and State Courts, sponsored by ALI-ABA (Charleston, South Carolina, May 31-June 2, 2006); speaker on Emerging Problem Areas in Rule 23 (Class Actions and Class Action Fairness Act).
- 58. Speaker, "Class Actions and Due Process, The 25th Anniversary of Phillips Petroleum

- Company v. Shutts," sponsored by the University of Missouri, Kansas City School of Law (Kansas City, April 7, 2006); speaker, "GRIDLAW: The Enduring Legacy of Phillips Petroleum Co. v. Shutts."
- 59. Speaker, Litigation and Resolution of Complex Claims, "Class Action Fairness Act

 One Year Later;" Arbitration Agreements and Class Actions," sponsored by
 Thomson-West Legalworks (San Francisco, California, November 16-17, 2005).
- 60. Speaker and panelist, "Asbestos and the Future of Mass Tort Litigation," at Symposium: Asbestos: Anatomy of a Mass Tort, sponsored by the University of Connecticut School of Law and the Insurance Law Center (Hartford, Connecticut, November 3-4, 2005).
- 61. Speaker, Annual Conference on Tort Liability Regimes, "The Class Action Fairness Act of 2005," sponsored by Munich Re (Munich, Germany, October 26-28th, 2005).
- 62. Speaker, "The Morphing of the Mass Tort Landscape What Factors Have Changed the Business of Mass Torts in Recent Years: The Class Action Fairness Act of 2005," Wall Street Forum: Mass Tort Litigation (New York City, October 19, 2005).
- 63. Faculty Member and panelist, "The Class Action Fairness Act," the American Bar Association 9th Annual National Institute on Class Actions (Chicago, September 23, 2005 and San Francisco, October 7, 2005).
- 64. Speaker, "The Class Action Fairness Act of 2005," The Federal Bar Association of San Antonio (San Antonio, Texas, September 14, 2005).
- 65. Faculty Member and presenter, The Roscoe Pound Institute, "State Rulemaking: The Varieties of the Rulemaking Experience and the Consequences for Substantive and Procedural Fairness, at the 2005 Forum for State Appellate Judges, Toronto, Canada (July 22-23, 2005).
- 66. Speaker, "Cutting Edge Strategies in Class Action Litigation," at Seminar: "Latest Developments In Class Action Law," Fulbright & Jaworksi (Houston, Texas February 23, 2005; Dallas, Texas March 30, 2005; Austin, Texas March 31, 2005).
- 67. Speaker, "Should Mississippi Adopt a Class Action Rule? Balancing the Equities: Ten Considerations That Mississippi Rulemakers Ought to Take Into Account in Evaluating Whether to Adopt a State Class Action Rule;" panelist, "The Merits and Demerits of Aggregating Civil Actions;" sponsored by the University of Mississippi Law School and Law Review Symposium "Love It or Leave It; An Examination of the Need for and Structure of a Class Action Rule for Mississippi" (Jackson, Mississippi, February 18, 2005).
- 68. Speaker, "Class Actions A View From the Experts," at the Advanced Consumer Litigation Conference sponsored by the Texas State Bar CLE and the National Association of Consumer Advocates (San Antonio, Texas, February 10-11, 2005).
- 69. Speaker, 14th Annual Litigation and Resolution of Complex Class Actions, sponsored by Glasser LegalWorks, January 27-28, 2005. Speaker on panels: "Recent Federal and

State Developments;" "Preliminary Issues Regarding Forum Selection, Jurisdiction, and Choice of Law;" "Electronic Discovery;" "Product Liability/Mass Tort Developments and Medical Monitoring Class Actions;" "Consumer Actions;" "Trial, Proof of Damages, and Punitive Damages;" and "Resolution and Settlement Strategies."

- 70. Speaker, "Recent Developments in the Field of Class Actions and Mass Torts," at the Corporate Counsel Symposium: Industries on the Defense Defending and Managing Litigation Across the Country, Class Actions Mass Torts, Aggregated Claims, New Threats, sponsored by the Federation of Defense & Corporate Counsel (September 9-10, 2004)(Milwaukee, Wisconsin, in conjunction with Marquette University Law School and in collaboration with the Product Liability Advisory Council).
- 71. Faculty Member and panelist, "Crossing the State Line: The Pursuit of State Law Claims for an Interstate Class, the American Bar Association 8th Annual National Institute on Class Actions (New York City, October 15, 2004 and New Orleans, October 29, 2004).
- 72. Speaker, Bazzle v. Green Tree Financial Corporation: Are Arbitration Agreements a Viable Tool Against Class Actions?, The Class Action Litigation Summit: Preemptive Best Practices and Winning Strategies (June 24-25, 2004, Washington D.C.).
- 73. Speaker, "Taking Adequacy Seriously: The Inadequate Assessment of Adequacy in Litigation and Settlement Classes," at the 10th Annual Institute for Law and Economic Policy, Symposium: Protecting the Public; The Role of Private and Public Attorneys' General, sponsored by Vanderbilt University Law School and the Vanderbilt Law Journal (April 23-24, 2004, Miami, Florida).
- 74. Speaker, "Class Action Standing After *Amchem* and *Ortiz*: The Problem of 'Logically Antecedent' Inquiries," at Symposium on Multi-Jurisdictional and Cross- Border Class Actions, Michigan State University DCL College of Law (April 16-17, 2004, East Lansing, Michigan).
- 75. Academic Invitee, Committee on the Rules of Practice and Procedure of the Judicial Conference of the United States, Conference on Electronic Discovery (February 20- 21, 2004, Fordham University School of Law, New York City).
- 76. Speaker, "The Future of Tort Reform: Possible Lessons From the World Trade Center Victim Compensation Fund," at The Randolph W. Thrower Symposium on The Future of Tort Reform: Reforming the Remedy, Re-Balancing the Scales (February 19, 2004 at the Emory Law School, Atlanta, Georgia).
- 77. Presenter and Faculty Member, 13th Annual Litigation and Resolution of Class Action Litigation (November 19-20th, 2003, New York City; December 3-4, 2003, San Francisco; sponsored by Glasser LegalWorks. Panels on "Reforms in Class Action Procedures and Effects on Strategies;" "Preliminary Issues Regarding Forum Selection, Jurisdiction, and Choice of Law;" "Products Liability/Mass Tort Developments and Medical Monitoring Class Actions;" "Consumer Actions."
- 78. Moderator and Presenter, The Future of Class Action Litigation in America (October 2-3, 2003, Boston, Massachusetts, sponsored by the American Bar Association, Tort Trial & Insurance Practice Section). Moderator of all panels for entire first day of program (six

- panels); panelist and presenter, "Recent Developments: Notice Issues, Res Judicata/Claim Preclusion Issues."
- 79. Speaker, "Developments in the Procedural Means For Resolution of Mass Tort Litigation in the United States, 1975-2003," (February 27-28, 2003), Conference on Liability for Acts of Terrorism, sponsored by the European Centre of Tort and Insurance Law, Munich, Germany.
- 80. Panelist, "The Right to Opt-Out of Class Action Suits," Symposium, "Cutting Edge Issues in Class Action Litigation," (November 1-2, 2002), The Legal Forum, The University of Chicago Law School).
- 81. Speaker, "September 11th Victim Compensation Fund of 2001: A Model for the Future?, Liability and Insurance After September 11th (March 21-22, 2002, University of Connecticut School of Law, Hartford, Connecticut Insurance Law Center and the Geneva Association).
- 82. Commentator, "Perspectives on Dispute Resolution in the 21st Century" (January 25, 2002, William S. Boyd School of Law, University of Nevada).
- 83. Speaker, "The Proposed Amendments to Federal Rule of Civil Procedure 23, The Class Action Rule" (January 16, 2002, The Federal Bar Association of San Antonio, Texas).
- 84. Commentator, "Judge Jack B. Weinstein, Tort Litigation, and The Public Good" (November 9, 2001, Brooklyn Law School).
- 85. Panelist, "Rules-Based Approaches to the Problems and Issues [relating to Proposed Amendments to Fed. R. Civ. P. 23]," Class Action Conference, sponsored by the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States (October 22-23, 2001, Chicago, Illinois).
- 86. Speaker, "A 'Predominância' e a 'Superioridade' Na Class Action for Damages Norte-Americana, IV Jornadas Braslieiras de Direito Procesual Civil, sponsored by the Instituto Brasileiro de Direito Processual and Instituto Brasiliense de Ensino e Pesquisa (August 6-10, 2001, Fortaleza, Brazil).
- 87. Speaker, "Where's There's Smoke: Will Tobacco Litigation Go Global?," Seventh Annual Clifford Symposium on Tort Law and Social Policy, DePaul University School of Law (April 5, 2001, Chicago, Illinois).
- 88. Speaker, "A Good Rulemaking: Federal Rule 23(f)," Symposium on the New Federal Rules of Civil Procedure: How Will They Affect Litigation Strategy and Tactics?," The Center for Advocacy and Dispute Resolution at the University of Tennessee College of Law (March 15, 2001, Knoxville, Tennessee).
- 89. Speaker, "Revising the Class Action Rule Federal Rule of Civil Procedure 23," The University of Tennessee College of Law (March 8, 2001; faculty colloquium, March 5, 2001, Knoxville, Tennessee).

- 90. Invited Conferee, *Ad Hoc* Subcommittee on Attorney Conduct, January 2001 Invitational, Committee on Rules of Practice and Procedure of the Judicial Conference of the United States (January 17, 2001, Washington D.C.).
- 91. Speaker, "State Class Actions Roundup: Significant Developments in States with Large Numbers of Class Actions," American Bar Association, Fourth Annual National Institute on Class Actions (October 13, 2000, New York City; October 27, 2000, Chicago, Illinois)(with the Section of Litigation and the Center for Continuing Legal Education).
- 92. Instructor, National Institute for Legal Education (Stanford Law School, July 3-7, 2000; St. Mary's Law School, August 4-5, 2000; Nova University Law Center, Ft. Lauderdale, Florida, August 11-12, 2000).
- 93. Speaker, "Federal Harmonization of Civil Procedure in the United States," International Association of Procedural Law, Millennium Colloquium (Ghent, Belgium, April 23-28, 2000).
- 94. Lecture, "Lessons From Abroad: Complexity and Convergence," the Reuschlein Endowed Lecture, Villanova University School of law (Villanova, Pennsylvania, April 7, 2000).
- 95. Speaker, "The Impact of Federal Class Action Law on Class Actions Litigation in the Gulf States," American Bar Association Section of Litigation Annual Meeting, Committee on Class Actions and Derivative Litigation (Seattle, Washington, April 6, 2000).
- 96. Speaker, "Abandoning the Federal Class Action Ship: Is There Smoother Sailing for Class Actions in Gulf Waters: The Trickle Down Effects of Federal Class Action Jurisprudence on the Gulf States," Symposium on Class Actions in the Gulf States sponsored by the Tulane Law Review and Tulane Law School (New Orleans, Louisiana, March 31, 2000).
- 97. Speaker, "The Impact of Federal Class Action Law on Class Actions Litigation in the Gulf States," Faculty Colloquium, Villanova University School of Law (March 29, 2000).
- 98. Lecture, "Lessons from Abroad–Resolving Aggregate Litigation in a Global Context," (the Harold Gill Reuschlein Distinguished Visiting Distinguished Chair Lecture, Villanova University Law School).
- 99. Invited Participant, Special Study Meeting on Federal Rules Governing Attorney Conduct, Subcommittee on Federal Rules Governing Attorney Conduct (sponsored by the Judicial Conference Committee on Rules of Practice and Procedure, Washington D.C., February 4, 2000).
- 100. Speaker, "Civil Procedure in the 21st Century–The Future of Complex Litigation," Association of American Law Schools Section on Civil Procedure (Washington D.C. January 8, 2000).
- 101. Commentator, "Futures," Mass Tort: A Symposium, sponsored by the David Berger Program on Complex Litigation & the University of Pennsylvania Law Review, in

- Conjunction with The Advisory Committee on Civil Rules & The Working Group on Mass Torts (Philadelphia, Pennsylvania, November 11-12, 1999).
- 102. Speaker and Panelist, "Creating Opportunities Outside the Law School," Workshop for Women in Legal Education, Association of American Law Schools (Chicago, Illinois October 1-2, 1999).
- 103. Speaker and Panelist, "New Developments in Class Actions;" and "Class Actions in State Courts: The New Forum," American Bar Association National Institute on Class Actions (Washington D.C. October 8, 1999).
- 104. Speaker and Panelist, "Ethical Issues in Mass Tort Litigation," 23rd Annual Page Keeton Products Liability and Personal Injury Law Conference (Austin, Texas October 21, 1999).
- 105. Instructor, National Institute for Legal Education (Nova University Law Center, Ft. Lauderdale, Florida, August 8-10, 1999).
- 106. Speaker, "Guns, Butter, Tobacco and Beer–Government Sponsored Litigation–Are You Next?," speaking on "Class Action and Aggregate Litigation in a Global Context," Products Liability Advisory Council Meeting (San Antonio, Texas May 6, 1999).
- 107. Speaker, "Hot Issues in Class Action Litigation," American Bar Association Section of Litigation Annual Meeting, Subcommittee on Class Actions and Derivative Litigation (Dallas, Texas April 16, 1999).
- 108. Program Moderator, "How to Prosecute and Defend a National Class Action," American Bar Association Section of Litigation Annual Meeting (Dallas, Texas April 15, 1999).
- 109. Colloquium Presentation, "Class Action and Aggregate Litigation in a Global Context," Valparaiso University School of Law (Valparaiso, Indiana March 26, 1999).
- 110. Speaker, The Monsanto Lecture: "Resolving Aggregate Mass Tort Litigation: The New Private Law Dispute Resolution Paradigm" (Valparaiso University School of Law, Valparaiso, Indiana March 25, 1999).
- 111. Moderator, Plaintiffs' Law Day (University of Texas School of Law, March 9, 1999).
- 112. Panelist, "The Ethics of Mass Torts and Class Action Settlements," 8th Annual Advanced Civil Trial Law Conference (Houston, Texas, February 4-5, 1999).
- 113. Commentator, "The Vicissitudes of the American Class Action," International Colloquium—Abuse of Procedural Rights: Comparative Standards of Procedural Fairness (sponsored by the International Association of Procedural Law, the Louisiana State Bar Association, International Law Section, and the Eason-Weinmann Center for Comparative Law at Tulane Law School, October 29, 1998).
- 114. Invited Conferee, Conference on Mass Torts, Mass Tort Working Group (sponsored by the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, San Francisco, April 23-24, 1998).

- 115. Speaker, "Mass Torts, Class Actions, and Aggregative Procedure Through a Comparative Lens," Symposium on Products Liability: Comparative Approaches and Transnational Litigation (sponsored by the *Texas International Law Journal*, Austin, Texas February 20, 1998).
- 116. Moderator, "Ethical Issues in Mass Tort Litigation" (symposium sponsored by the *Review of Litigation*, Austin, Texas, February 6, 1998).
- 117. Speaker, "10th Trial by Masters" (sponsored by Tulane Law School, Continuing Legal Education, New Orleans, Louisiana, December 19, 1997).
- 118. Speaker, "Getting to *Shutts*," Symposium in Honor of Professor Robert Casad (sponsored by the University of Kansas Law School, November 14, 1997).
- 119. Commentator, "Class Actions: Uses and Abuses" (sponsored by the Austin Inns of Court, Austin, Texas, October 20, 1997).
- 120. Commentator, Conference on Civil Discovery Rules (sponsored by the Advisory Committee on Civil Procedure of the United States Judicial Conference, Boston College, September 4-5, 1997).
- 121. Speaker and Program Moderator, "Class Actions After *Georgine* and *Ahearn*: What Will the Future Bring?," American Bar Association Annual Meeting, Presidential Showcase Program (San Francisco, California, August 1, 1997).
- 122. Speaker, "Current Developments in Class Action Litigation," Travis County Bar Association Bench-Bar VII Conference (Montgomery, Texas May 16-18, 1997).
- 123. Speaker, "Mass Torts and Class Actions, Analysis of Trends and Upcoming Events," (CLE Program sponsored by Shook, Hardy & Bacon, Kansas City, Missouri, April 25, 1997).
- 124. Speaker, "Current Controversies in Class Action Litigation," Loyola of Los Angeles Law School (Los Angeles, California, April 10, 1997).
- 125. Panelist, "Class Actions at the Crossroads" (symposium conference sponsored by the University of Arizona College of Law, the Law College Association, and the Institute for Law & Economic Policy, December 13-14, 1996, Tucson, Arizona).
- 126. Panelist and Speaker, "Proposed Amendments to the Federal Class Action Rule 23," American Law Institute-American Bar Association Program, Employment Law: The Big Case (New Orleans, Louisiana, October 31, 1996).
- 127. Luncheon Speaker, "Mass Tort Class Actions: On the Ropes," American Conference Institute, Conference of Tobacco Litigation (New York City, October 10, 1996).
- 128. Speaker, "Legal Scholarship Over a Lifetime Academic Career," AALS Workshop for New Teachers (Washington D.C., July 27, 1996).

- 129. Panelist, "Mass Torts: The Problems and Potential Solutions," Product Liability Advisory Council Spring Conference (Orlando, Florida, April 24-26, 1996).
- 130. Invited participant, Special Study Conference on Federal Rules Governing Attorney Conduct (sponsored by the Judicial Conference Committee on Rules of Practice and Procedure, Los Angeles, California, January 9-10, 1996).
- 131. Invited participant, Institute of Judicial Administration, Research Conference on Class Actions and Related Issues in Complex Litigation, New York University School of Law (New York City, April 21-22, 1995).
- 132. Invited participant, Southwest Legal Foundation Conference on Civil Procedure and the Future of the Federal Rules (Southern Methodist University, Dallas, March 31, 1995).
- 133. Speaker, "Personal Jurisdiction and Plaintiffs' Due Process," University of Florida College of Law (Gainesville, Florida, March 22-23, 1995).
- 134. Speaker, "Multiforum Practice: Ethics and *Erie*," Philip A. Hart Lecture, Georgetown University Law Center, Symposium on Legal Ethics Into the Twenty-First Century (Washington D.C. March 17, 1995).
- 135. Panelist, "The Limits of Partisan Advocacy," ABA Products Liability Section (mid-year meeting, Tucson, Arizona, February 23-26, 1995).
- 136. Speaker, The 50th Anniversary of *International Shoe*: The Past and Future of Personal Jurisdiction, University of California at Davis School of Law (Davis, California February 10, 1995).
- 137. Speaker, "Mass Tort Litigation and the Dilemma of Federalization," Section on Federal Courts, Association of American Law Schools Annual Meeting (New Orleans, Louisiana, January 1995).
- 138. Invited Conferee, National Mass Tort Conference (Cincinnati, Ohio, November 10 13, 1994).
- 139. Panelist, Conference on Jurisdiction, Justice, and Choice of Law for the 21st Century, New England School of Law (Boston, Massachusetts, October 28 29, 1994).
- 140. Conferee, Judicial Conference of the Fifth Judicial Circuit (San Antonio, Texas, June 6-8, 1994).
- 141. Panelist, Women's Forum, Women in Legal Education, 40th Anniversary of Women Graduates, Georgetown University Law Center (Washington D.C., April 15, 1994).
- 142. Speaker, "Discovery in Disarray: The Pervasive Myth of Pervasive Discovery Abuse and the Consequences of Unfounded Rulemaking," Clason Lecture Series, the Western New England College of Law (Springfield, Massachusetts, February 28, 1994).
- 143. Speaker, "Opportunities, Responsibilities, and Roadblocks to Achieving Power: Working With the Legal Profession and the Bar," Miniworkshop on "Beyond Tokenism: Wrestling

- with Power, Creative Opportunity," Co-Sponsored by the Professional Development Committee and the Section on Women in the Law, Association of American Law Schools Annual Meeting (Orlando, Florida, January 6, 1994).
- 144. Associate Reporter, The American Law Institute, PROCEEDINGS OF THE 70TH ANNUAL MEETING 1993 (presentation of Tentative *Draft No. 6* of the RESTATEMENT OF THE LAW GOVERNING LAWYERS, Washington D.C., May 13 -14, 1993).
- 145. Speaker, "Carnival Cruise Lines and Contractual Personal Jurisdiction," Section on Maritime Law, Association of American Law Schools Annual Meeting (San Francisco, California, January 9, 1993).
- 146. Speaker, "Civil Justice Reform Act of 1990 and Its Impact on Federal Practice and Procedure," State Bar of Texas Annual Meeting (Corpus Christi, Texas, June 26, 1992).
- 147. Associate Reporter, The American Law Institute, PROCEEDINGS OF THE 69TH ANNUAL MEETING 358 (1992)(presentation of Tentative *Draft No. 5* of the RESTATEMENT OF THE LAW GOVERNING LAWYERS, Washington D.C., May 14 15, 1992).
- 148. Reporter, National Conference on State-Federal Judicial Relationships (Orlando, Florida, April 10 -13, 1992).
- 149. Speaker, "Federalizing Choice of Law in Mass Tort Litigation," Section on Conflicts of Law, Association of American Law Schools Annual Meeting (San Antonio, Texas, January 4, 1992).
- 150. Presiding Officer, 15th Annual Page Keeton Products Liability and Personal Injury Law Conference (Austin, Texas, November 1991).
- 151. Speaker, The Alexander Watkins Terrell Lecture, "Hope Over Experience: Mandatory Informal Discovery and the Politics of Rulemaking," University of Texas School of Law (Austin, Texas, March 19, 1991).
- 152. Co-Chair, Committee on Complex Litigation, Section on Civil Procedure of the Association of American Law Schools; Speaker, "Problems in Complex Litigation" (annual meeting, January 1991).
- 153. Planning Committee Member, Workshop for New Law Teachers, Association of American Law Schools, small group discussion leader (Washington D.C., July 1990).
- 154. Chair and Planning Committee Member, Association of American Law Schools Workshop for New Law Teachers (Washington D.C., July 20-22, 1989).
- 155. Teaching Demonstration, "Teaching Methodologies: Problem Method," Association of American Law Schools Workshop For New Law Teachers, (Washington, D.C., July 21-23, 1988).
- 156. Planning Committee Member, Conference on Civil Procedure, Association of American Law Schools; Panelist, "Perspectives on Civil Procedure Scholarship: Integrating

Traditional Scholarship Into the Classroom;" Chair, "Civil Procedure and Other Disciplines and Perspectives;" Chair, "Innovation in the Classroom: Use of Supplementary Materials" (Charlottesville, Virginia, June 4-10, 1988).

157. Steering Committee member, symposium organizer, and panelist, D.C. Area Women Law Professors (1986-1991). Speaker, Symposium on Professional Development (Washington D.C., fall 1989); Symposium on Scholarship (Washington D.C., May 1986).

PREVIOUS ACADEMIC EMPLOYMENT

American University, Washington, D.C.

School of Justice, College of Public Affairs

Assistant Professor, 1978-1979

Adjunct Assistant Professor, 1997-78; 1979-80

Courses: Introduction to Problems of Justice; Justice and Morality; Introduction to Political Theory; Civil Disorder; Nature and Function of the American Legal System; Moral Issues in Criminal Justice; Police and the Political System; The Constitution and Criminal Procedure

Department of Government, College of Public Affairs

Adjunct Assistant Professor, Fall 1977

Course: Introduction to American Government

George Washington University, Washington, D.C.

College of General Studies

Associate Professorial Lecturer in Government, 1977-1980

Courses: The Legislative Process; U.S. Constitutional Law and Politics I;

U.S. Constitutional Law and Politics II

Georgetown University Law Center, Washington, D.C. Law

Fellow, 1978-1979

Course: Legal Research and Writing

Fordham University, Lincoln Center Campus New York

City, New York

Adjunct Assistant Professor, Political Science, 1977

Adjunct Instructor, Political Science, 1975-1977 (offered tenure track position)

Courses: Introduction to American Politics; Introduction to American Constitutional Law; Civil Liberties Under the Constitution; Political Action in America; Revolution and Revolutionary Change; Classical Political Thought; Modern Political Thought; International Law

The City College of New York, New York City

Department of Political Science Adjunct

Assistant Professor, 1977

Courses: International Law; Constitutional Law: The Federal System

The Cooper Union for the Advancement of Science and Art

Cases #82-2021-2nd-02002 03m/e/ht: 00021/10331/659720-2 Paged 201511/107at@ Fagled: 2018/09/2019

Social Sciences Program

Assistant Professor, Spring 1977

Instructor, Fall 1976

Course: Politics and American Society

The New York Institute of Technology, New York City

Instructor of Political Science, Spring 1976 **Courses:** American Government and Politics; Government and Metropolitan Problems

The University of Maryland, European Division

Ramstein, Germany

Instructor of Political Science, 1974

PREVIOUS LEGAL EMPLOYMENT

Pierson, Ball & Dowd

Washington, D.C.

(since merged with Reed, Smith, Shaw & McClay)

Associate Attorney, 1980-1981

General corporate; FCC; Ethics in Government Act; wills and trusts; appellate

Van Arkel, Kaiser, Gressman, Dreisen & Rosenberg

Washington, D.C. (since merged with Bredhoff and Kaiser) Law Clerk, 1979-1980

Union labor representation; class action against Government Printing Office

Musick, Peeler & Garrett Los

Angeles, California Summer

Associate, 1979

General corporate practice: litigation; tax; probate; labor law; health care

Environmental Protection Agency

Washington, D.C.

Summer Associate, 1978

Research and regulations under the Resource Conservation and Recovery Act

PERSONAL INFORMATION

Volunteer Guide, Wildbasin Nature Preserve (Austin, Texas)

Austin Habitat for Humanity (volunteer)

Westlake High School Band Parents (Board Member, 1999-2003; Chair, Chaperones, 2000-

03; High School Representative, 1999-2000; Westlake Marching Festival annually)

Class reunion committee, 25th and 30th reunions, Georgetown Law Center

Class reunion committee, 40th reunion, CCNY

Exhibit B

CaSes#8220212nd-020323m/ent: 000311/13321655920-2 Paged 211711/117ate Figled: 208/09/2019

Summary of Time and Fees by Task

	Linda S. Mullenix, Attorney at Law
Reporting Period:	January 1, 2014 - April 20, 2016

Task Category	Total Hours	Total Billing Amount
(1) Discovery	0.00	\$0.00
(2) PSC Calls/Meetings	0.00	\$0.00
(3) Lead Counsel/PSC Duties	0.00	\$0.00
(4) Administrative	0.00	\$0.00
(5) MDL Status Conference	0.00	\$0.00
(6) Court Appearance	0.00	\$0.00
(7) Research	5.00	\$2,750.00
(8) Litigation Strategy & Analysis	55.50	\$30,525.00
(9) Pleadings/Briefs/Pre-trial Motions/Legal	1.00	\$550.00
(10) Experts/Consultants	0.00	\$0.00
(11) Settlement	0.00	\$0.00
(12) Appeal	9.75	\$5,362.50
(13) Miscellaneous	0.00	\$0.00
Total:	71.25	\$39,187.50

Exhibit 10

CaSes#822012nd-(Dox13ment: 000111331165920-2 Paged 211911/1Date Figled: 208/09/2019 Total Compensated Seasons

Years Played	Compensated Seasons	# Players	Total Compensated Seasons
0	0	2247	0
1	1	5041	5041
2	2	2719	5438
3	3	1940	5820
4	4	1564	6256
5	5	1366	6830
6	5	1232	6160
7	5	965	4825
8	5	889	4445
9	5	802	4010
10		679	3395
11+	5	1626	8130
	Total:	21070	60350

Source: Table 4-3, Dkt. 6167 at 18

Exhibit 11

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 221/11/10/ate āġed: 308/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Added Eligible	Dlayed Only
Dlaver			Seasons (excluding	Played Only NFL Europe?
Player Abe, Nachi	Europe Seasons 3		seasons beyond 5) 1.5	Y
Abe, Takuro	1		0.5	Y
Abernathy, Chad	1		0.5	Y
Abiamiri, Rob	1		0.5	Y
Abron, Zack	1		0.5	Y
Acedo, Oscar	1		0.5	Y
Adams, Ben	2		1	Y
Adams, Louis	1		0.5	Y
Adams, Michael	2	3	1	N
Adams, Raymonn	1	J	0.5	Y
Adams, Scott	1	6	0.9	N
Adams, Stefon	1	6	0	N
Adams, Theo	2	2	1	N
Adamson, Rob	1	_	0.5	Y
Adibi, Nathaniel	1		0.5	Y
Adjei, Richard	4		2	Y
Adkisson, James	1	1	0.5	N
Agaoglu, Reyhan	3	_	1.5	Y
Age, Louis	2	1	1	N
Agee, Mel	1	5	0	N
Ajdir, Foad	3		1.5	Υ
Akah, Emanuel	2		1	Y
Akers, Jeremy	1		0.5	Υ
Akerstrom, Anders	2		1	Υ
Alalampi, Sami	3		1.5	Υ
Alcorn, Daron	1		0.5	Y
Alderson, Winston	1		0.5	Υ
Aldridge, Kevin	1	1	0.5	N
Aldridge, Melvin	2	1	1	N
Ale, Arnold	1	2	0.5	N
Alexander, Andre	2		1	Υ
Alexander, Bubba	1		0.5	Υ
Alexander, Chris	1		0.5	Υ
Alexander, Curtis	1		0.5	Υ
Alexander, Jamaal	1		0.5	Υ
Alexander, Jeff	1	2	0.5	N
Alexander, Ken	2		1	Υ
Alexander, Mike	2		1	Υ
Alexander, Philip	2		1	Y
Alford, Bill	2		1	Y

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 22/211/10/ate āġed: 308/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Added Eligible	Dlayed Only
Diagram			Seasons (excluding seasons beyond 5)	Played Only NFL Europe?
Player Alinen, Klaus	Europe Seasons			-
, , , , , , , , , , , , , , , , , , ,	3	2	1.5 0.5	N
Allen Alen	3	2	1.5	
Allen, Alan	1		0.5	Y
Allen, Andre	2		0.5	Y
Allen, Bosley				Y
Allen, Clive	1		0.5 0.5	
Allen, Corey	1	1	0.5	N
Allen, Derek Allen, Jared	1	1	0.5	Y
	1		0.5	Y
Allen, Jeremy	2			Y
Allen, Kevin	1	1	1 0.5	
Allen, Kevin	3	1		
Allen, Marvin			1.5	Y Y
Allen, Mikki	1		0.5	
Allen, Reggie		1	0.5	
Allers Jone	1 2	1	0.5	N
Allers, Jens			1	Y
Almond, Marcell	1		0.5	Y Y
Almanzar, Luis			0.5	
Alsbury, Paul	1		0.5	Y
Alston, Charles	1		0.5	
Alston, Corey	1		0.5	
Alston, Jon	1	2	0.5	Y
Alvord, Steve	2	2	1	N
Alyson, Gareth	1		0.5	Y
Amaya, Akihito	2		1	Y
Amey, Vince	2	1		N
Ammons, David	1		0.5	Y
Amos, Willie	1		0.5	
Amundson, Allan	2		1	Y
Anderbrügge, Ingo	2		1	Y
Anderson, Adam	2		1	Y
Anderson, Bill	2		1	
Anderson, Bryan	1	1		
Anderson, Dunstan	1	2		
Anderson, Eric	1		0.5	Y
Anderson, Gerry	2		1	Y
Anderson, Jason	1		0.5	
Anderson, Jason	1			
Anderson, Jeff	1		0.5	Υ

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Dlaver			seasons (excluding seasons beyond 5)	NFL Europe?
Player	Europe Seasons 1			-
Anderson, John	1		0.5 0.5	Y
Anderson, Kane	1	1	0.5	
Anderson, Ken	1	T	0.5	N Y
Anderson, Lance Anderson, Maurice	1		0.5	
· ·				Y
Anderson, Sir Henry Ando, Sumitaka	1 2		0.5	Y
	1		0.5	Y
Andrew, Michael	2	1		N
Andrew, Troy	1	Τ	0.5	Y
Andrews, Kyle	3	1		
Andrews, Ricky	1	2	1.5 0.5	N
Andrus, Shane	1			
Anelli, Mark	1	1	0.5 0.5	N Y
Angey Josés	7		3.5	
Angoy, Jesús				Y
Ansu-Yeboah, Kevin	1		0.5	
Anthony, Charles			0.5	
Anglakia Biak	1 2		0.5	Y Y
Apolskis, Rick			1	
Archer, David	1	6	0	N
Archer, Phil	2		1	Y
Archer, Sam	1		0.5	Y
Arellanes, Jim	3		1.5	Υ
Area and Dahart	1		0.5	Y
Arnaud, Robert	1		0.5	
Arnold, Andre	2		1	Y
Arnold, Clay	1		0.5	
Aronson, Doug	2	1	1	N
Arth, Tom	2		1	
Asberry, Darrell	1		0.5	
Ashman, Duane	1		0.5	
Aska, Joe	1	3	0.5	
Aslaksen, Nicolay	1		0.5	
Atkins, Corey	1	1	0.5	
Atkinson, Brian	1		0.5	
Atkinson, Jason	1		0.5	
Atoe, Ryan	2		1	Y
Augafa, Patrick	1		0.5	
Augustino, Jason	1		0.5	
Austin, Larry	1		0.5	Υ

Bailey, Kenny 1 0.5 Y Bailey, Mario 6 3 Y Bailey, Ronald 1 0.5 Y Bailey, Thomas 1 1 0.5 N Bailey, Troy 2 1 Y Bailey, Jamie 3 1.5 Y Baker, Jon 1 2 0.5 N Baker, Jon 3 1.5 Y Baker, Jon 3 1.5 Y Baker, Mike 1 0.5 Y Baker, Robert 1 1 0.5 N Baker, Steve 1 0.5 Y Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ball, LaVar 1 0.5 Y Ballard, Clenton 1 0.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1				Added Elicible	
Player		AL COLOR CALEL	Nbc		
Austin, Reggie 1 2 0.5 N Austin, Rick 1 1 0.5 Y Austin, Teryl 1 1 0.5 Y Avery, Steve 1 5 0 0 N Avetisyan, Avo 1 0.5 Y Ayanbadejo, Brendon 1 1 0 0 0 N Backes, Tom 1 0.5 Y Bacon, Omar 1 0.5 Y Badon, Adesola 1 0.5 Y Bailey, Corey 1 0.5 Y Bailey, Craig 1 0.5 Y Bailey, Craig 1 0.5 Y Bailey, David 2 1 Y Bailey, David 1 1 0.5 N Bailey, Ranry 1 0.5 Y Bailey, Ranro 6 3 Y Bailey, Thomas 1 1 0.5 Y Bailey, Troy 2 1 0.5 N Bailey, Troy 2 1 Y Bailey, Troy 2 1 Y Bailey, Jamie 3 1.5 Y Baker, Jon 3 1.5 Y Baker, Jon 3 1.5 Y Baker, Jon 3 1.5 Y Baker, Steve 1 0.5 Y Baldy, David 1 1 0.5 N Baker, Steve 1 0.5 Y Bally, Corey 1 1 0.5 N Bally, Thoma 1 1 0.5 N Bally, Thoma 1 1 0.5 N Baker, Steve 1 0.5 Y Bally, Thoma 1 1 0.5 N Bally, Thoma 1 1 1 0.5 N Ballard, Clenton 1 0.5 N Ballard, Clenton 1 1 0.5 N Ballard, Clenton 1 1 0.5 N Ballard, Derrick 1 1 1 0.5 N Bally, Thoma 1 1 1 0.5 N Bally, Thoma 1 1 1 1 0.5 N B					
Austin, Rick 1 0.5 Y Y Austin, Teryl 1 1 0.5 Y Y Avery, Steve 1 5 0 0 N Averty, Steve 1 5 0 0 N Avetisyan, Avo 1 0.5 Y Ayanbadejo, Brendon 1 10 0 0 N Backes, Tom 1 0.5 Y Bacon, Omar 1 0.5 Y Bacon, Omar 1 0.5 Y Bailey, Corey 1 0.5 Y Bailey, Craig 1 0.5 Y Bailey, David 2 1 0.5 N Bailey, David 1 1 0.5 N Bailey, David 1 1 0.5 N Bailey, Ronald 1 0.5 Y Bailey, Troy 2 1 1 0.5 N Bailey, Jamie 3 1.5 Y Bailey, Jamie 3 1.5 Y Baker, Jon 3 1.5 Y Baker, Jon 3 1.5 Y Baker, Jon 3 1.5 Y Baker, Both Thomas 1 1 0.5 N Bailey, Troy 2 1 1 N Baker, Jon 1 0.5 N Bailey, Thomas 1 1 0.5 N Bailey, Jamie 1 0.5 N Baker, Jon 1 0.5 N Ballard, Clenton 1 0.5 N Ballard, Clenton 1 0.5 N Ballard, Jon 1 0.5 N Ballard, Jon 1 0.5 N Ballard, Jon 1 0.5 N Banks, Joey 1 1 1 0.5 N Banks, Joey 1 1 1 0.5 N Banks, Jon 1 0.5 N Banks, Shawn 1 0	•				
Austin, Teryl Avery, Steve 1 5 0 N Avetisyan, Avo 1 0.5 Y Avetisyan, Avo 1 0.5 Y Ayanbadejo, Brendon 1 10 0 N Backes, Tom 1 0.5 Y Bacon, Omar 1 0.5 Y Bailey, Crorey 1 0.5 Y Bailey, David 2 1 Y Bailey, David 1 1 0.5 N Bailey, Ronny 1 0.5 Y Bailey, Ronny 1 0.5 Y Bailey, Ronndd 1 0.5 N Bailey, Jamie 1 0.5 N Baker, Jon 1 0.5 N Baley, Jon 1 0.5 Y Baley, Jon 1 0.5 N Baley, Jon 1 0.5 Y Baley, Jon 1 0.5 Y Ballor, John 1 0.5 N Baldwin, Fabian 2 1 N Baldwin, Fabian 3 1.5 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim Ballard, Jim Ballard, Karl 2 1 Y Bandison, Romeo 1 0.5 N Banks, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Shawn 3 0.5 N Banks, Shawn 3 0.5 N			2		
Avery, Steve 1 5 0 N Avetisyan, Avo 1 1 0.5 Y Ayanbadejo, Brendon 1 10 0 0 N Backes, Tom 1 0.5 Y Backon, Omar 1 0.5 Y Badon, Adesola 1 0.5 Y Bailey, Corey 1 0.5 Y Bailey, Craig 1 0.5 Y Bailey, David 2 1 Y Bailey, Bailey, Ronald 1 0.5 N Bailey, Ronald 1 0.5 Y Bailey, Mario 6 3 Y Bailey, Troy 2 1 0.5 N Bailey, Jamie 3 1.5 Y Basker, Jon 3 1.5 Y Baker, Robert 1 1 0.5 N Baker, Robert 1 1 0.5 N Baker, Robert 1 1 0.5 N Baker, Steve 1 0.5 N Baley, Troy 2 1 1 0.5 N Baker, Steve 1 0.5 Y Balley, Thoma 1 0.5 N Baley, Thoma 1 0.5 N Baker, Steve 1 0.5 N Baker, Steve 1 0.5 N Baley, Troy 2 1 1 N Baley, Thoma 1 1 0.5 N Baker, Steve 1 0.5 N Baker, Steve 1 0.5 N Baley, Troy 2 1 N Balley, Thoma 1 1 0.5 N Baley, Troy 1 N Balley, Thoma 1 1 0.5 N Baley, Thoma 1 1 0.5 N Ballard, Clenton 1 0.5 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 1 1 0.5 N Ballard, Jim 1 1 0.5 N Banks, Chris 1 1 0.5 N Banks, Antonio 1 1 3 0.5 N Banks, Shawn 3 0.5 N					
Aveitsyan, Avo 1 1 0.5 Y Y Ayanbadejo, Brendon 1 10 0 0 N Backes, Tom 1 0.5 Y Bacon, Omar 1 0.5 Y Badon, Adesola 1 0.5 Y Badon, Adesola 1 0.5 Y Bailey, Corey 1 0.5 Y Bailey, Craig 1 0.5 N Bailey, David 1 1 0.5 N Bailey, David 1 1 0.5 N Bailey, Mario 6 3 Y Bailey, Ronald 1 0.5 Y Bailey, Ronald 1 0.5 Y Bailey, Ronald 1 0.5 N Bailey, Ronald 1 0.5 N Bailey, Troy 2 1 1 0.5 N Bailey, Troy 2 1 1 0.5 N Bailey, Troy 2 N Bailey, Jamie 3 1.5 Y Baker, Jon 1 2 0.5 N Baker, Jon 1 0.5 N Baker, Steve 1 0.5 N Baker, Steve 1 0.5 N Baker, Steve 1 0.5 N Ballori, Fabian 2 N Baldwin, Damon 4 D D D D D D D D D D D D D D D D D D	•		_		
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Bailey, Corey 1 0.5 Y Bailey, David 2 1 Y Bailey, David 1 1 0.5 N Bailey, David 1 1 0.5 N Bailey, Kenny 1 0.5 Y Bailey, Mario 6 3 Y Bailey, Mario 6 3 Y Bailey, Ronald 1 0.5 Y Bailey, Thomas 1 1 0.5 N Bailey, Troy 2 1 Y Bailey, Jamie 3 1.5 Y Baker, Jon 1 2 0.5 N Baker, Jon 3 1.5 Y Baker, Mike 1 0.5 Y Baker, Robert 1 1 0.5 Y Baker, Steve 1 0.5 Y Baker, Tony 2 3 1 N Baldwin, Pabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar					
Bailey, Crag 1 0.5 Y Bailey, David 2 1 Y Bailey, David 1 1 0.5 N Bailey, Kenny 1 0.5 Y Bailey, Mario 6 3 Y Bailey, Ronald 1 0.5 N Bailey, Thomas 1 1 0.5 N Bailey, Troy 2 1 Y Bailey, Jamie 3 1.5 Y Baker, Jon 1 2 0.5 N Baker, Jon 3 1.5 Y Baker, Mike 1 0.5 Y Baker, Mike 1 0.5 Y Baker, Robert 1 0.5 Y Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Balldwin, Fabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballard, Clenton 1 0.5	•				
Bailey, David 2 1 Y Bailey, David 1 1 0.5 N Bailey, Kenny 1 0.5 Y Bailey, Mario 6 3 Y Bailey, Ronald 1 0.5 Y Bailey, Thomas 1 1 0.5 N Bailey, Troy 2 1 Y Bailey, Jamie 3 1.5 Y Baker, Jon 1 2 0.5 N Baker, Jon 3 1.5 Y Baker, Jon 3 1.5 Y Baker, Mike 1 0.5 Y Baker, Robert 1 0.5 Y Baker, Steve 1 0.5 Y Baldwin, Damon 4 2 Y Baldwin, Damon 4 2 Y Bally, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballard, Clenton 1 0.5 Y Ballard, Jim 3 1.5					
Bailey, David 1 1 0.5 N Bailey, Kenny 1 0.5 Y Bailey, Mario 6 3 Y Bailey, Ronald 1 0.5 Y Bailey, Thomas 1 1 0.5 N Bailey, Troy 2 1 Y Bailey, Jamie 3 1.5 Y Baker, Jon 1 2 0.5 N Baker, Jon 3 1.5 Y Baker, Jon 3 1.5 Y Baker, Mike 1 0.5 Y Baker, Mike 1 0.5 Y Baker, Robert 1 0.5 N Baker, Steve 1 0.5 Y Baldwin, Damon 4 2 Y Baldwin, Fabian 2 1 N Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballard, Clenton 1 0.5 Y Ballard, Jim 3 1.5	,				
Bailey, Kenny 1 0.5 Y Bailey, Mario 6 3 Y Bailey, Ronald 1 0.5 Y Bailey, Thomas 1 1 0.5 N Bailey, Troy 2 1 Y Bailey, Jamie 3 1.5 Y Baker, Jon 1 2 0.5 N Baker, Jon 3 1.5 Y Baker, Mike 1 0.5 Y Baker, Mike 1 0.5 Y Baker, Robert 1 1 0.5 N Baker, Steve 1 0.5 Y Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Bally, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ball, LaVar 1 0.5 Y Ballard, Clenton 1 0.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 <td>• •</td> <td></td> <td></td> <td></td> <td></td>	• •				
Bailey, Mario 6 3 Y Bailey, Ronald 1 0.5 Y Bailey, Thomas 1 1 0.5 N Bailey, Troy 2 1 Y Bailey, Jamie 3 1.5 Y Baker, Jon 1 2 0.5 N Baker, Jon 3 1.5 Y Baker, Mike 1 0.5 Y Baker, Robert 1 1 0.5 N Baker, Steve 1 0.5 Y Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Ball, Chris 1 0.5 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballard, Jon 2 1 Y Ballard, Derrick 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banks, Antonio 1 <td></td> <td></td> <td>1</td> <td></td> <td>N</td>			1		N
Bailey, Ronald 1 0.5 Y Bailey, Thomas 1 1 0.5 N Bailey, Troy 2 1 Y Baisley, Jamie 3 1.5 Y Baker, Jon 1 2 0.5 N Baker, Jon 3 1.5 Y Baker, Jon 3 1.5 Y Baker, Mike 1 0.5 Y Baker, Robert 1 1 0.5 N Baker, Steve 1 0.5 N Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Baldwin, Fabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ball, LaVar 1 0.5 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 <td< td=""><td></td><td></td><td></td><td></td><td>Υ</td></td<>					Υ
Bailey, Thomas 1 1 0.5 N Bailey, Troy 2 1 Y Baisley, Jamie 3 1.5 Y Baker, Jon 1 2 0.5 N Baker, Jon 3 1.5 Y Baker, Jon 3 1.5 Y Baker, Mike 1 0.5 Y Baker, Robert 1 1 0.5 N Baker, Steve 1 0.5 N Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Baldwin, Fabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballard, Clenton 1 0.5 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banks, Antonio	Bailey, Mario	6		3	Υ
Bailey, Troy 2 1 Y Baisley, Jamie 3 1.5 Y Baker, Jon 1 2 0.5 N Baker, Jon 3 1.5 Y Baker, Jon 3 1.5 Y Baker, Mike 1 0.5 Y Baker, Robert 1 1 0.5 N Baker, Steve 1 0.5 Y Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Baldwin, Fabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballardyne, Jon 2 1 Y Ballardyne, Jon 2 1 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Banes, Joey 1 1 0.5<	Bailey, Ronald			0.5	Υ
Baisley, Jamie 3 1.5 Y Baker, Jon 1 2 0.5 N Baker, Jon 3 1.5 Y Baker, Mike 1 0.5 Y Baker, Robert 1 1 0.5 N Baker, Steve 1 0.5 Y Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Baldwin, Fabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballartyne, Jon 2 1 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banks, Antonio 1 3 0.5 N Banks, Shawn 3 1.5 Y	Bailey, Thomas	1	1	0.5	N
Baker, Jon 1 2 0.5 N Baker, Jon 3 1.5 Y Baker, Mike 1 0.5 Y Baker, Robert 1 1 0.5 N Baker, Steve 1 0.5 Y Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Baldwin, Fabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ball, LaVar 1 0.5 Y Ballard, Clenton 2 1 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Shawn 3 1.5 Y	Bailey, Troy	2		1	Υ
Baker, Jon 3 1.5 Y Baker, Mike 1 0.5 Y Baker, Robert 1 1 0.5 N Baker, Steve 1 0.5 Y Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Baldwin, Fabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballardyne, Jon 2 1 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Shawn 3 1.5 Y	Baisley, Jamie	3		1.5	Υ
Baker, Mike 1 0.5 Y Baker, Robert 1 1 0.5 N Baker, Steve 1 0.5 Y Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Baldwin, Fabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballartyne, Jon 2 1 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Shawn 3 1.5 Y	Baker, Jon	1	2	0.5	N
Baker, Robert 1 1 0.5 N Baker, Steve 1 0.5 Y Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Baldwin, Fabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballartyne, Jon 2 1 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Shawn 3 1.5 Y	Baker, Jon	3		1.5	Υ
Baker, Steve 1 0.5 Y Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Baldwin, Fabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballantyne, Jon 2 1 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Shawn 3 1.5 Y	Baker, Mike	1		0.5	Υ
Baker, Tony 2 3 1 N Baldwin, Damon 4 2 Y Baldwin, Fabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballantyne, Jon 2 1 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y	Baker, Robert	1	1	0.5	N
Baldwin, Damon 4 2 Y Baldwin, Fabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballantyne, Jon 2 1 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Shawn 3 1.5 Y	Baker, Steve	1		0.5	Υ
Baldwin, Fabian 2 1 Y Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballantyne, Jon 2 1 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y	Baker, Tony	2	3	1	N
Ball, Chris 1 0.5 Y Ball, LaVar 1 0.5 Y Ballantyne, Jon 2 1 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y	Baldwin, Damon	4		2	Υ
Ball, LaVar 1 0.5 Y Ballantyne, Jon 2 1 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y	Baldwin, Fabian	2		1	Υ
Ballantyne, Jon 2 1 Y Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y	Ball, Chris	1		0.5	Υ
Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y	Ball, LaVar	1		0.5	Υ
Ballard, Clenton 1 0.5 Y Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y	Ballantyne, Jon	2		1	Υ
Ballard, Derrick 3 1.5 Y Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y		1		0.5	Υ
Ballard, Jim 3 1.5 Y Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y					Y
Ballard, Karl 2 1 Y Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y	Ballard, Jim	3		1.5	Υ
Bandison, Romeo 1 2 0.5 N Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y					Y
Banes, Joey 1 1 0.5 N Banks, Antonio 1 3 0.5 N Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y			2		N
Banks, Antonio 1 3 0.5 N Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y					N
Banks, Chris 1 3 0.5 N Banks, Shawn 3 1.5 Y	•				
Banks, Shawn 3 1.5 Y					N
Barber, Chris 1 3 0.5 N	Barber, Chris	1			

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 22/511/10/ate āġed:308/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Newsboy of NEI	Number of	Added Eligible	Diamed Only
Diaman	Number of NFL	Number of	Seasons (excluding	Played Only
Player Budy	Europe Seasons		seasons beyond 5)	NFL Europe?
Barber, Rudy	1		0.5 0.5	Y Y
Barbotti, Maurizio		1		
Barnard, Brooks	1	1		
Barnard, David Barnes, Johnnie	1	1	0.5 0.5	Y N
	1	4		Y
Barnes, Leo	1	3	0.5 0.5	
Barnes, Lew	1			N
Barnes, Pat	2	1		N
Barnes, Rashidi Barnett, Alonza	2	T	1	Y
·	1	6		N
Barnett, Oliver	1	0	0.5	Y
Barnett, Thomas	1	3		
Barnett, Tim	1			
Barr, Dave	3	1		N N
Barr, Mike		Τ		Y
Barr, Robert	3 2	1	1.5	Y N
Bartalo, Steve		1		
Barthelmes, Brian	1	2	0.5	Y
Bartlewski, Rich		2		N
Bary, Ousmane	1		0.5	
Baskin, Thomas	1		0.5	
Basler, Kyle	1		0.5	
Bass, Robert	1	1		
Bateman, Eric	1		0.5	Y Y
Bates, Chad	2		1	
Bates, Steve	1	2	0.5	Y
Batiste, Michael	2	2		N
Batiste, Raymond	1		0.5	
Battle, Andrew	1		0.5	
Battle, Terry	1		0.5	
Bauer, Stephan	2		1	Y
Baugher, Danny	1		0.5	
Bautovich, Wes	1		0.5	
Bax, Carl	1	2		
Baxley, Rob	1	1		
Baxter, Neil	1		0.5	
Bayes, Andrew	2		1	Y
Bayne, Chris	1	2		
Baynham, Grant	1		0.5	
Bazile, Wilky	1		0.5	Υ

CaSes#822012nd-(D0031)ment: 0031/10331/65920-2 Pāġed 22/611/1Date āġed:308/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Beach, Sanjay	1	4	_	N N
Beasley, Chad	1	1	0.5	N
Beauchamp, Tim	1		0.5	Y
Beavers, Aubrey	1	3	0.5	N
Beck, Tom	1	3	0.5	Y
Beckley, Jeff	3		1.5	Y
Behre, Ulf	1		0.5	Y
Beitia, Xavier	1		0.5	Y
Belden, Terry	1		0.5	Y
Belin, Chuck	1	3	0.5	N
Bell, Grantis	1		0.5	Υ
Bell, Jim	2		1	Y
Bell, Jimmie	1		0.5	Y
Bell, Ken	1	4	0.5	N
Bell, Kerwin	2	1		N
Bell, Ricky	1	3	0.5	N
Bell, Trumane	1		0.5	Υ
Bellamy, Mike	2	1	1	N
Belli, Barry	1		0.5	Υ
Bellora, Luca	1		0.5	Υ
Bender, Carey	1	1	0.5	N
Bender, Wes	1	2	0.5	N
Benetka, Daniel	6		3	Υ
Benjamin, Na'il	1		0.5	Υ
Bennett, Ben	1	1	0.5	N
Bennett, Stan	1		0.5	Υ
Bennett, Tracy	1		0.5	Υ
Bennetts, Aaron	1		0.5	Υ
Benoit, Jermaine	2		1	Υ
Benoit, Sarth	1		0.5	Υ
Bentley, Scott	1	3	0.5	N
Berardelli, Paul	2		1	Υ
Berger, Blaine	2		1	Υ
Bergeron, David	1		0.5	Υ
Berlin, Brock	1	2	0.5	N
Bernard, Mike	1		0.5	Υ
Berry, Reggie	1		0.5	
Berryman, Jason	1		0.5	Υ
Berti, Tony	1	3	0.5	N
Bethea, James	1		0.5	Υ

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 221711/10/ate āġed: 308/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Added Eligible	Dlayed Only
Diover			Seasons (excluding	Played Only
Player Bethel, Randy	Europe Seasons 1		seasons beyond 5) 0.5	NFL Europe?
Bethune, George	1	2	0.5	N
Beun, Daniel	1	2	0.5	
Beutler, Jeremy	1		0.5	Y
Biancamano, Francesco	2		0.5	Y
Biedermann, Claus	2		1	Y
Bierman, Randy	2		1	Y
Bingham, T.J.	2		1	Y
Birmingham, DeCori	1		0.5	Y
Bishop, Michael	1	1	0.5	
Bishop, Octavious	1	_	0.5	
Björk, Carl-Johan	3		1.5	Y
Bjorkman, Stefan	1		0.5	Y
Black, Greg	1		0.5	Y
Black, Nathan	1	2	0.5	
Blackman, Jon	1	_	0.5	Y
Blackwell, Kory	3	1		N
Blair, Ja'Waren	2	_	1	Y
Blair, Michael	1	1		N
Blake, Ricky	1	1	0.5	
Blakley, Dwayne	1	4	0.5	N
Blanco, Theo	2		1	Υ
Bland, Justin	1		0.5	Υ
Bleker, Marcus	1		0.5	Υ
Blenman, Rowelle	9		4.5	Υ
Blick, John	1		0.5	Υ
Blizzard, Bobby	2		1	Υ
Bloedorn, Greg	1	2	0.5	N
Blokland, Patrick	1		0.5	Υ
Blomvall, Carl-Johan	2		1	Υ
Blundin, Matt	1	3	0.5	N
Bob, Adam	2	1	1	N
Bobo, Phillip	1		0.5	Υ
Bogle, Phil	1	1	0.5	N
Bohlinger, Rob	1	1	0.5	N
Boles, Tony	1		0.5	Υ
Bolling, Nate	1		0.5	Υ
Bolton, Nathaniel	2		1	Υ
Bonds, Byron	1		0.5	Υ
Bongo-Wanga, Loliki	1		0.5	Υ

CaSes#822012nd-(D0031)ment: 0031/10331/65920-2 Pāġed 22/811/1Date āġed: 308/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Add delayed	
	No. of No. of No.	No. of the confi	Added Eligible	
Diaman		Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Bonner, Cedric	2		1	Y
Bonner, Patrick	1	4	0.5	N N
Booker, Fred		1	0.5	
Booker, Ulish	1 2		0.5	Y
Boone, Aaron			0.5	Y
Boone, Jesse Booth, John	1		0.5	Y
· · · · · · · · · · · · · · · · · · ·	1	2	0.5	N
Borgella, Jocelyn	1		0.5	N
Borum, Jarvis	1	1		Y
Bouknight, Jovon	1	10	0.5	N
Bouman, Todd Bouyer, Willie	2		0	N
, ,	1	1	0.5	Y
Bowden, Andre				
Bowenkamp, John	1		0.5	Y Y
Bowers, Ryan			0.5	
Bowick, Tony	2	1	0.5	N Y
Bowman, Mike		1		
Boyd, LaVell	1	1	0.5	N
Boyd, Shane	1		0.5	N
Boyd, Tommie	1	2	0.5	N
Bozeman, Michael	1		0.5	Y
Bradford, Patrick	1		0.5	Y
Bradford, Vincent	2		1	Y
Bradley, Chuck	2	1	1	N
Bradley, Jykine			0.5	Y
Bradley, Mario	1	4	0.5	Y
Brady, Rickey	2		1	N
Bragg, Craig	1		0.5	Y
Bramlet, Casey	1	2	0.5	N
Bramlet, Corey	1	4	0.5	Y
Branch, Bruce	1		0.5	N
Branch, Calvin	1	5	0	N
Branch, Darrick	1		0.5	Y
Branch, Mario	1		0.5	Y
Brandom, John	1		0.5	Υ
Brannon, Steve	2		1	Y
Branscomb, Kenyon	1		0.5	Y
Branscombe, Steven	1		0.5	Y
Brantley, Chris	1		0.5	N
Brantley, John	1	2	0.5	N

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 222911/10/ate āġed:308/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Brantley, Kellen	1		0.5	Υ
Brasher, Bob	1		0.5	Y
Bratton, Brian	1		0.5	Υ
Bray, Jayson	1		0.5	Υ
Bray, Trent	1		0.5	
Brazier, James	1		0.5	Υ
Breeden, Sam	1		0.5	Υ
Breedlove, Dimitrius	1		0.5	Υ
Breedlove, Kevin	1	1	0.5	N
Bretz, Brad	3		1.5	Υ
Brew, Dorian	1	2	0.5	N
Brewer, Ryan	1		0.5	Υ
Brewster, Carlton	1		0.5	Υ
Brice, Will	1	2	0.5	N
Brickus, Lelan	4		2	Υ
Bridewell, Jeff	1		0.5	Υ
Bridges, Corey	1		0.5	Υ
Brielmaier, Ben	1		0.5	Υ
Brigham, Marques	1		0.5	Υ
Bright, Anthony	1	1	0.5	N
Brightful, Lamont	1	3	0.5	N
Brilliant, Pierre	1		0.5	Υ
Brimmer, Jamaal	1		0.5	Υ
Brinker, Chad	1		0.5	Υ
Brinson, Dana	1	1	0.5	N
Bristol, Mark	1		0.5	Υ
Britton, Eddie	1		0.5	
Broady, Timothy	2		1	Υ
Brook, Mark	2		1	Υ
Brooks, Ahmad	1	1	0.5	N
Brooks, Bobby	2		1	N
Brooks, Carlos	2	1	1	N
Brooks, Ethan	1			N
Brooks, Jamal	1	2	0.5	N
Brooks, Kevin	1		0.5	
Brooks, Reggie	1	4	0.5	N
Brooks, Steve	1		0.5	
Brooks, Tony	1	1	0.5	
Broomfield, Donald	1		0.5	
Broussard, Jamall	1	1	0.5	N

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 23011/10/ate āġed: 408/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Added Eligible	Played Only
Diavas			Seasons (excluding	
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Brown, Andre	1	2		N
Brown, Ben	2		1	Y Y
Brown, Chris	2		1	
Brown, Chris	1	1	0.5	N Y
Brown, Darwin			0.5	
Brown, DeAuntae	2	1	1	N
Brown, Delvin		1	0.5	N
Brown, DeMario	1		0.5	Y
Brown, Demetrius	1		0.5	Y
Brown, Denauld	2		1	Y
Brown, Eddie	1		0.5	Y
Brown, Ernie	1	1	0.5	N
Brown, Gary	2	3	1	N
Brown, Greg	2		1	Y
Brown, Henry	1		0.5	Y
Brown, James	2		1	Y
Brown, Jeff	2		1	Y
Brown, Jonathan	2	2	1	N
Brown, Justin	2		1	Y
Brown, Kerry	1		0.5	Y
Brown, LaWaylon	1		0.5	Y
Brown, Marlon	2		1	Y
Brown, Matt	1		0.5	Y
Brown, Michael	1	1	0.5	N
Brown, Pierre	1		0.5	Y
Brown, Ricky	1		0.5	Y
Brown, Rufus	1	1		
Brown, Tim	1		0.5	
Brown, Tony	1			
Brown, Wilbert	1	3		
Brown, Will	1		0.5	
Browning, Alfonzo	2		1	Y
Broyles, James	1	1		
Brubaker, Mark	1		0.5	Y
Brunson, Joe	1		0.5	
Bryant, Beno	1	1	0.5	
Bryant, Phil	1		0.5	
Bryant, Ricky	2		1	Υ
Bryant, Taman	1		0.5	
Bryant, Vaughn	1		0.5	Υ

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 231/11/10/ate āġed: 408/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Add debath.	
	No. of the College	N	Added Eligible	
S1		Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Bryant, Winfred	2		1	Y
Brymer, Chris	2		1	Y
Bubin, Sean	1	2	0.5	Y
Buchanan, Richard	1	2	0.5	N
Buck, Edward		7	0.5	
Buck, Jason	1 2	7	0	N Y
Buddenberg, John			1	
Buhl, Josh	2	3	0.5	Y N
Burbage, Cornell	1	3	1	Y
Burch, John			0.5	
Burford, Seth	1		0.5	
Burgsmüller, Manfred	7		3.5	Y Y
Burkett, Jeremy	1		0.5	
Burks, Diaello	2	1	1	N
Burman, Ed	1		0.5	Y
Burman, Jon	1 2		0.5	Y
Burnett, Bryce			1	Y
Burnett, Webbie	1		0.5	Υ
Burns, Antoine	1		0.5	Y
Burr, Josh	1		0.5	Y
Burris, Henry	1	1	0.5	N
Burroughs, Justin	1		0.5	Y
Burse, Tony	2	1	1	N
Burton, Charles	2		1	Y
Burton, Kendrick	1	1	0.5	N
Busch, Peter	1		0.5	Y
Bush, Jovon	1		0.5	
Bussie, Arthur	1		0.5	
Butkus, Luke	2		1	Υ
Butler, Darren	1		0.5	
Butler, Duane	1			
Butler, Hillary	2	1	1	N
Butler, Jay	1		0.5	
Butler, Terry	1	1	0.5	
Butler, Vince	1		0.5	
Butterfield, Mark	1		0.5	
Butts, Anthony	2		1	Υ
By'Not'e, Butler	1	2	0.5	N
Byers, Mark	1		0.5	
Bynum, Reggie	1	1	0.5	N

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			Added Elicible	
	No. of the College	N	Added Eligible	
		Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Byrd, Anthony	1		0.5	Y
Byrd, Israel	2	2	1	N
Byworth, Jason	4	_	2	Y
Cade, Eddie	1	1	0.5	N
Cadore, Mike	1	_	0.5	Y
Caesar, Ivan	1	1	0.5	N
Cain, Jeremy	1	9		N
Caldwell, Cecil	1		0.5	Y
Caldwell, David	1	1		N
Caldwell, Donnie	1		0.5	Υ
Callens, Corey	2		1	Y
Campbell, Joseph	1	2	0.5	N
Campbell, Kofi	1		0.5	Υ
Campbell, Lang	1		0.5	Y
Campion, Pete	1		0.5	Υ
Campos, Alan	2	1	1	N
Canonico, Ed	1		0.5	Υ
Cantelupe, Jim	2		1	Υ
Cantrell, Barry	1	1		N
Cantu, Omar Erick	2		1	Υ
Cantu, Rolando	1	1		N
Capes, Lewis	4		2	Υ
Caravatta, Giulio	1		0.5	Υ
Carberry, Kevin	1		0.5	Υ
Carey, Richard	1	2	0.5	N
Carlyle, Calvin	1		0.5	Υ
Carmazzi, Giovanni	1	1		N
Carollo, Joe	1		0.5	Υ
Carothers, Greg	2		1	Υ
Carpenter, Ron	1	5	0	N
Carr, Lydell	2	1		N
Carr, William	1		0.5	Υ
Carroll, Herman	1	1	0.5	N
Carroll, Travis	1	2	0.5	N
Carson, Elliott	1		0.5	Υ
Carter, Antwaun	1		0.5	Υ
Carter, Bernard	1	1	0.5	N
Carter, Dwight	1		0.5	Υ
Carter, Dyshod	1			N
Carter, Jeremy	1		0.5	Υ

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			Addad Eligible	
	Number of NFL	Number of	Added Eligible Seasons (excluding	Played Only
Dlaver			seasons (excluding seasons beyond 5)	NFL Europe?
Player Carter Johnny	Europe Seasons			<u> </u>
Carter, Johnny	2	1	0.5	N N
Carter, Jon Carter, Kahlil	1		0.5	Y
Carter, Ontiwaun	3		1.5	Y
Carter, Simmie	1		0.5	
Carter, Tim	2	1	0.5	n N
Carthen, Jason	1		0.5	
Carthy, Trevor	1	2	0.5	Y
Cartwright, Ricardo	1		0.5	Y
Cash, Ataveus	2		0.5	Y
Castaneda, Eduardo	1		0.5	
Castro, Cayetano	1		0.5	Y
Caudill, Jeremy	2		0.5	Y
Cavallo, Tom	2		1	Y
Cavil, Ben	1	2		N
Cavil, Kwame	1	1	0.5	N
Cavka, Marko	2		0.5	Y
Cawley, Mike	1		0.5	Y
Cecere, Mike	1		0.5	Y
Cecil, Toby	1		0.5	Y
Cercone, Matt	1	2		
Chambers, Derrick	1	2	0.5	
Chambers, Dwain	1		0.5	
Chamblin, Corey	1	1	0.5	N
Champagne, Alan	1		0.5	
Chandler, Darren	2		1	Y
Chandler, Dwayne	1		0.5	
Chaney, Jeff	2		1	
Chaney, Jermaine	2		1	
Chang, Timmy	1		0.5	
Chapman, Lindsey	1		0.5	
Chapman, Robert	1		0.5	
Chapura, Dick	1	1		
Charles, Craig	1	_	0.5	
Charles, Earl	1		0.5	
Charles, Hency	2		1	Y
Charles, Terry	1		0.5	
Chase, Jeff	1		0.5	
Chatman, Jermaine	2		1	
Cheattom, Carlo	1		0.5	

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 233411/10/ate āġed: 408/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Cheek, Steve	1	1	0.5	N
Cherry, J'Juan	1		0.5	Y
Cherry, Marcus	1		0.5	
Chevrier, Randy	1	1	0.5	
Childress, Ahmad	1		0.5	
Childress, O.J.	1	1	0.5	N
Childs, Henri	1	_	0.5	
Childs, Jason	1		0.5	Υ
Childs, Ron	1	1		
Christenson, Brandon	1	1	0.5	N
Christian, Kenny	1		0.5	
Chryst, George	1		0.5	
Clabo, Tyson	1	9	0	N
Clack, Darryl	1	4	0.5	N
Clare, Mike	2		1	Υ
Clark, Bruce	2	8	0	N
Clark, Derrick	4	1	2	N
Clark, Howard	1		0.5	Υ
Clark, Matthew	1		0.5	Υ
Clark, Reggie	1	3	0.5	N
Clark, Rico	1	3	0.5	N
Clark, Sedric	3	1	1.5	N
Clarke, Tim	1		0.5	Υ
Claro, Tom	2		1	Υ
Clausen, Casey	1		0.5	Υ
Claxton, Ben	1	3	0.5	N
Claybrooks, Felipe	1	2	0.5	N
Clayton, Carey	1	1	0.5	N
Clement, Ryan	1		0.5	Υ
Clements, Chuck	1	1	0.5	N
Clements, Jimmy	1		0.5	Υ
Clemons, Lloyd	1		0.5	
Clinkscale, Jonathan	1		0.5	Υ
Clinton, Eugene	1		0.5	
Cloman, Scott	1		0.5	Υ
Coauette, Greg	1		0.5	
Cobb, Glenn	2		1	
Cobb, Trevor	1	1	0.5	
Cobbins, Lyron	1		0.5	
Cobbs, Anthony	2		1	Υ

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			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Cobourne, Avon	1	1	0.5	N
Cochran, Earl	1	3	0.5	N
Cochran, Nate	1	3	0.5	Y
Cochrane, Chris	1		0.5	Y
Cockerham, Billy	1		0.5	Y
Cockrell, Randy	1		0.5	Y
Codrington, Nigel	1		0.5	Y
Coghill, George	3	4	1	N
Cohen, Dustin	2	2		N
Cohens, Willie	1	_	0.5	Y
Colbert, Darrell	1	2		N
Cole, Lee	2	1	1	N
Coleman, Calvin	1		0.5	Υ
Coleman, Herb	1		0.5	Υ
Coleman, Quincy	1		0.5	Y
Coleman, Travis	1	1	0.5	N
Coles, Karl	1		0.5	Υ
Coley, Marvin	2		1	Υ
Coll, Pau	3		1.5	Υ
Collins, Chris	1		0.5	Υ
Collins, Dan	1		0.5	Υ
Collins, Fabray	1	1	0.5	N
Collins, Linzy	1		0.5	Υ
Collins, McAlister	1		0.5	Υ
Collins, Mike	1		0.5	Υ
Collins, Ronald	2		1	Υ
Collins, Roosevelt	1	1	0.5	N
Collins, Ryan	2	1	1	N
Collins, Shawn	1	5	0	N
Colquitt, Jerry	1		0.5	Υ
Combs, Derek	1	2	0.5	N
Combs, Jonathan	1		0.5	Υ
Concetion, Shurendy	2		1	Υ
Conde, Cacho	1		0.5	Υ
Conley, Bart	1		0.5	Υ
Conley, Jonathanio	1		0.5	Υ
Conley, Leonard	1		0.5	Υ
Conley, Sean	1		0.5	Υ
Connolly, Brian	1		0.5	Υ
Connor, Rameel	1		0.5	Υ

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			Added Eligible	
	Number of NFL	Number of	Added Eligible Seasons (excluding	Played Only
Diavas			seasons (excluding seasons beyond 5)	NFL Europe?
Player Scott	Europe Seasons			
Connot, Scott Conti, Eddie	2	T	0.5	Y
Cook, Ivan	1		0.5	Y
Cook, Kerwin	1		0.5	Y
Cook, Michael	1		0.5	
Cook, Mike	1		0.5	Y
Cooks, Terrence	2	1		N
Cooney, Anthony	2	1	1	Y
Cooper, Andre	1	1		N
Cooper, Deke	1	6	0.5	N
Cooper, Gary	1		0.5	Y
Cooper, Roger	1		0.5	Y
Copeland, Jeremaine	1		0.5	Y
Corell, Marc	1		0.5	Y
Cortez, Jose	1	6		N
Costa, Dave	1	1	0.5	N
Costa, Frank	2	1	1	Y
Costello, Brad	1	2	0.5	N
Cotar, Cedric	3	2	1.5	Y
Cotton, Curtis	1		0.5	
Cotton, Kotto	1		0.5	Y
Cottrell, Jim	1		0.5	Y
Cottrell, T.J.	2		1	Y
Couch, Robert	2		1	Y
Council, Keith	1		0.5	Y
Couper, Scott	9		4.5	Y
Courville, Vince	2	1		N
Cousins, Jomo	1	_	0.5	Y
Coutain, Kenny	1		0.5	
Covington, Brian	1		0.5	
Cowsette, Delbert	1	2		
Cox, Jamal	1	_	0.5	
Cox, Jonathan	1		0.5	
Cox, Renard	2	1	1	
Crafts, Jerry	1			N
Craig, Dameyune	1	2	0.5	N
Craig, Keith	1		0.5	
Craig, Paco	1	1	0.5	
Crandell, Marcus	1		0.5	
Crawford, Darrell	1		0.5	

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			Added Elicible	
	Number of NFL	Number of	Added Eligible	Dlayed Only
Diagram			Seasons (excluding seasons beyond 5)	Played Only NFL Europe?
Player Crawford, Derrick	Europe Seasons 1		0.5	-
Crawford, Regis	1		0.5	Y
Crawford, Tarren	1		0.5	
Crawford, Tim	1	1		N
Crecion, Gabriel	1	1		
Crespina, Keita	1		0.5	Y
Crigler, Eric	1		0.5	
Cristobal, Mario	2		1	Y
Criswell, Ray	2	2		N
Crittendon, Aaron	1		0.5	Y
Crocker, Sean	1		0.5	
Cromartie, Keaton	1		0.5	Y
Croom, Larry	3	1		N
Crooms, Chris	2	1		N
Crossman, Dan	2	_	1	Y
Crouch, Eric	1		0.5	Y
Crowder, Tom	1		0.5	
Crowell, Jeff	1		0.5	Y
Crowell, Rick	1		0.5	Υ
Crum, Maurice	1		0.5	Y
Crummey, Pat	1		0.5	
Cullinane, Gene	1		0.5	Υ
Cully, Steve	2		1	Υ
Cummings, Chris	4		2	Υ
Cunningham, Alonzo	1		0.5	Υ
Curley, Dan	1	1	0.5	N
Curry, Clarence	1	1	0.5	N
Curry, Nate	1		0.5	Υ
Curry, Scott	1	1	0.5	N
Curry, Walter	2		1	Υ
Curtis, Bobby	1	1	0.5	N
Curtis, Isaac	1		0.5	Υ
Curtis, Kevin	2		1	Υ
Curtis, Travis	1	5	0	N
Czwalinna, Christian	1		0.5	Υ
Czyzewski, Arden	1		0.5	Υ
Dacus, David	1		0.5	Υ
Dada, Omowale	1		0.5	Υ
Daft, Kevin	2		1	Υ
Dahlke, Dennis	1		0.5	Υ

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			Added Elicible	
	AL COLOR CALEL	N	Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Dahlquist, Eric	1		0.5	Y
Dalton, Antico	1	2	0.5	N
Daniel, Darryl	1		0.5	Y
Daniels, Juan	1		0.5	Y
Daniels, LeShun	1	1		N
Dantzler, Woodrow	1	2	0.5	N
Darby, Brendan	1		0.5	Υ
Darby, Chartric	1	9	0	N
Darrington, Charlie	2		1	Υ
Datz, Daniel	1		0.5	Υ
Dausin, Chris	2		1	Υ
Davis, Adam	1		0.5	Υ
Davis, Charles	1		0.5	Υ
Davis, Darrell	1	2	0.5	N
Davis, Darrick	1		0.5	Υ
Davis, Demetrius	4		2	Υ
Davis, Dennis	1		0.5	Υ
Davis, Ennis	1		0.5	Υ
Davis, Jason	1		0.5	Υ
Davis, Jason	1		0.5	Υ
Davis, Jerome	1	3	0.5	N
Davis, Joel	1		0.5	Υ
Davis, Josh	1		0.5	Υ
Davis, Nick	1	2	0.5	N
Davis, Pat	1		0.5	Υ
Davis, Pernell	2	1	1	N
Davis, Richard	1		0.5	Υ
Davis, Robert	1		0.5	Υ
Davis, Shockmain	1	1	0.5	N
Davis, Terence	2		1	Υ
Davis, Thabiti	1	2	0.5	N
Davis, Wade	2		1	Υ
Davis, Wayne	1	2		N
Dawkins, Ralph	4		2	Y
Dawson, Curry	1		0.5	Y
Day, Chris	1		0.5	Y
Day, Terry	1	1		
De La Garza, Aldo	1	_	0.5	Y
Dean, Josh	1		0.5	
Dean, Kevin	1			
Deart, Nevin	1	1	0.3	- IN

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			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Dean, Konrad	1	IVI L Seasons	0.5	Y
Dean, Terry	1		0.5	Y
Dees, Dempsey	1		0.5	Y
DeGraffenreid, Allen	2	1	0.5	N
DeLamielleure, Todd	1	_	0.5	
DeLaTorre, Aaron	1		0.5	Y
Delhomme, Jake	1	10	0.9	N
Deligianis, Harry	1	10	0.5	Y
DeLorenzo, Tony	1		0.5	
Demaree, Chris	1	1	0.5	
Denis Sanchez, Aristides	1	_	0.5	
Denney, Chris	1		0.5	Y
Denson, Autry	1	4		N
DePaola, Dante	3		1.5	
DeRonde, Kevin	3		1.5	
DesRochers, Dave	2		1	Υ
Devine, Matt	1		0.5	Υ
Devoe, Todd	1	2	0.5	N
DeWitt, John	2		1	Υ
Diaz-Infante, David	2	6	0	N
Dickerson, Bryan	1		0.5	Υ
Dickerson, Kori	1	1	0.5	N
Dickerson, Ron	2	2	1	N
Dickson, Joel	1		0.5	Υ
Dickson, Wayne	2		1	Υ
Diedrick, Dahrran	1	1	0.5	N
Dieplinger, Benjamin	1		0.5	Υ
Diliberto, Silvio	8		4	Υ
Dillahunt, Ellis	1	1	0.5	N
Dillard, Sean	1		0.5	Υ
Dilweg, Anthony	1	2	0.5	N
DiMario, Pete	1		0.5	Υ
Dingle, Antonio	2	1	1	N
Dinkins, David	1		0.5	Υ
Dinwiddie, Ryan	1		0.5	
Dittman, Seth	2		1	
Dittoe, Chris	2		1	
Dixon, Arrion	1		0.5	Υ
Dixon, Daryl	1		0.5	
Dixon, Gerald	1		0.5	Υ

CaSes#822012nd-(D0031)ment: 0031/10331/65920-2 Pāġed 24011/1Date āġed:508/09/2019 Eligible Seasons Added by Credit for NFL Europe

Number of NFL Europe Seasons NFL Seasons Seasons (excluding NFL Seasons Seasons beyond Seasons NFL					
Player Europe Seasons NFL Seasons Seasons beyond 5 NFL Europe?				Added Eligible	
Dixon, Jinmy 2 1 Y Dixon, Johnny 4 2 Y Dixon, Mark 1 6 0 N Dixon, Titus 1 1 0.5 N Doctor, Sean 1 0.5 Y Doggette, Cecil 3 1.5 Y Doghmi, Anthony 6 3 Y Dolan, Chris 1 0.5 Y Dominic, John 1 0.5 Y Domaldson, Cedric 2 1 Y Donaldd, Tony 2 1 Y Donaldd, Tony 2 1 Y Donaldson, Cedric 2 1 Y Dorsch, Travis 2 1 1 N Doty, Jon 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Rome <th></th> <th></th> <th></th> <th></th> <th></th>					
Dixon, Johnny 4 2 Y Dixon, Mark 1 6 0 N Dixon, Titus 1 1 0.5 N Doctor, Sean 1 0.5 Y Doggette, Cecil 3 1.5 Y Doghmi, Anthony 6 3 Y Dolan, Chris 1 0.5 Y Dominic, John 1 0.5 Y Domald, Tony 2 1 Y Donald, Tony 2 1 Y Dorsch, Travis 2 1 1 N Dorty, Jon 1 0.5 Y Dougherty, Robert 1 0.5 Y Dougherty, Robert 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Donald 2 1 Y Douglas, Nike 1 0.5 Y Dowlas, Son	-				
Dixon, Mark 1 6 0 N Dixon, Titus 1 1 0.5 N Doctor, Sean 1 0.5 N Doggette, Cecil 3 1.5 Y Doggette, Cecil 3 1.5 Y Doghmi, Anthony 6 3 Y Dolad, Chris 1 0.5 Y Dominic, John 1 0.5 Y Donald, Tony 2 1 Y Donaldson, Cedric 2 1 Y Dors, Tavis 2 1 1 N Dotty, Jon 1 0.5 Y Y Douglas, Octris 1 0.5 Y Y Douglas, Chris 1 0.5 Y Y Douglas, Cody 1 0.5 Y Douglas, Cordy 1 0.5 Y Y Douglas, Cody 1 0.5 Y Douglas, Mike 1 0.5 Y					
Dixon, Titus 1 1 0.5 N Doctor, Sean 1 0.5 Y Dogghette, Cecil 3 1.5 Y Doghmi, Anthony 6 3 Y Dolan, Chris 1 0.5 Y Domald, Tony 2 1 Y Donaldson, Cedric 2 1 Y Donaldson, Cedric 2 1 N Porsch, Travis 2 1 1 N Doty, Jon 1 0.5 Y Douglas, Chody 1 0.5 Y Douglas, Chose 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Douglas, Rome 2 1 Y Douglas, Rome 2 1 Y Douglas, Rome					
Doctor, Sean 1 0.5 Y Doggette, Cecil 3 1.5 Y Doghmi, Anthony 6 3 Y Dolan, Chris 1 0.5 Y Dominic, John 1 0.5 Y Domaldson, Cedric 2 1 Y Dorsch, Travis 2 1 1 N Dotry, Jon 1 0.5 Y Dougherty, Robert 1 0.5 Y Doughas, Chris 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Donald 2 1 Y Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Douglas, Rome 2 1 Y Downer, Cole 1 0.5 Y Downer, Cole 1 0.5 Y Downer, Chris 1	•				
Doggette, Cecil 3 1.5 Y Doghmi, Anthony 6 3 Y Dolan, Chris 1 0.5 Y Dominic, John 1 0.5 Y Domald, Tony 2 1 Y Donaldson, Cedric 2 1 Y Dorsch, Travis 2 1 1 N Doty, Jon 1 0.5 Y Dougherty, Robert 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Gondid 2 1 Y Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Douglas, Rome 2 1 Y Downer, Cole 1 0.5 Y Downer, Pat 1 0.5 Y Downs, Chris 1 <td< td=""><td>· ·</td><td></td><td>1</td><td></td><td></td></td<>	· ·		1		
Doghmi, Anthony 6 3 Y Dolan, Chris 1 0.5 Y Domalds, John 1 0.5 Y Donaldson, Cedric 2 1 Y Dorsch, Travis 2 1 1 N Doty, Jon 1 0.5 Y Y Douglas, Chris 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Donald 2 1 Y Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Douglas, Rome 2 1 Y Downer, Cole 1 0.5 Y Downer, Cole 1 0.5 Y Downer, Pat 1 0.5 Y Downer, Cole 1 0.5 Y Downer, Chris 1 0.5 Y Dowle, Pat 1					
Dolan, Chris 1 0.5 Y Dominic, John 1 0.5 Y Donalds, Tory 2 1 Y Donaldson, Cedric 2 1 Y Dorsch, Travis 2 1 1 N Doty, Jon 1 0.5 Y Dougherty, Robert 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Donald 2 1 Y Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Douglas, Rome 2 1 Y Downer, Cole 1 0.5 Y Downer, Cole 1 0.5 Y Downer, Pat 1 0.5 Y Downs, Chris 1 0.5 Y Downs, Chris 1 0.5 Y Dowle, Pat 1 0.5 <td></td> <td></td> <td></td> <td></td> <td></td>					
Dominic, John 1 0.5 Y Donald, Tony 2 1 Y Dorsch, Travis 2 1 1 N Doty, Jon 1 0.5 Y Dougherty, Robert 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Donald 2 1 Y Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Downey, Pat 1 0.5 Y Downey, Pat 1 0.5 Y Doyle, Phil 1 0.5	•				
Donald, Tony 2 1 Y Dorsch, Travis 2 1 1 Y Doty, Jon 1 0.5 Y Dougherty, Robert 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Donald 2 1 Y Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Douglas, Joe 2 1 Y Downer, Cole 1 0.5					
Donaldson, Cedric 2 1 Y Dorsch, Travis 2 1 1 N Doty, Jon 1 0.5 Y Douglary, Robert 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Donald 2 1 Y Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Dowlas, Cole 1 0.5 Y Downer, Cole 1 0.5 <td></td> <td></td> <td></td> <td></td> <td></td>					
Dorsch, Travis 2 1 1 N Doty, Jon 1 0.5 Y Dougherty, Robert 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Donald 2 1 Y Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Douglas, Joe 2 1 Y Dowlas, Cody 1 0.5 Y Dowlas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Dowlas, Rome 2 1 Y Dowlas, Rome 2 1 Y Downer, Cole 1 0.5				1	
Doty, Jon 1 0.5 Y Dougherty, Robert 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Donald 2 1 Y Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Douglass, Joe 2 1 Y Dowles, Cole 1 0.5 Y Downer, Cole 1 0.5 Y Downey, Pat 1 0.5 Y Downey, Pat 1 0.5 Y Downey, Chris 1 0.5 Y Dox, Chris 1 0.5 Y Dox, Pat 1 0.5 Y Doyle, Pat 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y <					
Dougherty, Robert 1 0.5 Y Douglas, Chris 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Donald 2 1 Y Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Douglas, Joe 2 1 Y Downer, Cole 1 0.5 Y Downer, Cole 1 0.5 Y Downey, Pat 1 0.5 Y Downey, Chris 1 0.5 Y Doxzon, Todd 1 1 0.5 N Doyle, Pat 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Dragos, Scott 1 </td <td>Dorsch, Travis</td> <td></td> <td>1</td> <td></td> <td></td>	Dorsch, Travis		1		
Douglas, Chris 1 0.5 Y Douglas, Cody 1 0.5 Y Douglas, Donald 2 1 Y Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Douglass, Joe 2 1 Y Downer, Cole 1 0.5 Y Downer, Cole 1 0.5 Y Downey, Pat 1 0.5 Y Downey, Pat 1 0.5 Y Downey, Chris 1 0.5 Y Doxzor, Todd 1 1 0.5 N Doyle, Pat 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2		1		0.5	
Douglas, Cody 1 0.5 Y Douglas, Donald 2 1 Y Douglas, Mike 1 0.5 Y Douglass, Rome 2 1 Y Dowlass, Joe 2 1 Y Downer, Cole 1 0.5 Y Downey, Pat 1 0.5 Y Downs, Chris 1 0.5 Y Doxzon, Todd 1 1 0.5 N Doyle, Pat 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1					
Douglas, Donald 2 1 Y Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Dowlas, Rome 2 1 Y Dowles, Cole 1 0.5 Y Downer, Cole 1 0.5 Y Downey, Pat 1 0.5 Y Downs, Chris 1 0.5 Y Doxzon, Todd 1 1 0.5 N Doyle, Pat 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1	Douglas, Chris	1		0.5	
Douglas, Mike 1 0.5 Y Douglas, Rome 2 1 Y Douglass, Joe 2 1 Y Downer, Cole 1 0.5 Y Downey, Pat 1 0.5 Y Downs, Chris 1 0.5 Y Doxzon, Todd 1 1 0.5 N Doyle, Pat 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dresbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Drieber, Martin	Douglas, Cody			0.5	
Douglas, Rome 2 1 Y Douglass, Joe 2 1 Y Downer, Cole 1 0.5 Y Downey, Pat 1 0.5 Y Downs, Chris 1 0.5 Y Doxzon, Todd 1 1 0.5 N Doyle, Pat 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Drake, Charles 1 2 0.5 N Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 N Driever, Martin 4 2 Y Drivere, Rob 1 0.5 Y	Douglas, Donald	2		1	Υ
Douglass, Joe 2 1 Y Downer, Cole 1 0.5 Y Downey, Pat 1 0.5 Y Downs, Chris 1 0.5 Y Doxzon, Todd 1 1 0.5 N Doyle, Pat 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Dragos, Scott 1 2 0.5 N Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Driveer, Martin 4 2 Y <t< td=""><td>Douglas, Mike</td><td>1</td><td></td><td>0.5</td><td>Υ</td></t<>	Douglas, Mike	1		0.5	Υ
Downer, Cole 1 0.5 Y Downey, Pat 1 0.5 Y Downs, Chris 1 0.5 Y Doxzon, Todd 1 1 0.5 N Doyle, Pat 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Dragos, Scott 1 2 0.5 N Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Driever, Martin 4 2 Y Driver, Michael 1 0.5 Y Droege, Rob 1 0.5 N	Douglas, Rome	2		1	Υ
Downey, Pat 1 0.5 Y Downs, Chris 1 0.5 Y Doxzon, Todd 1 1 0.5 N Doyle, Pat 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Driever, Martin 4 2 Y Driever, Martin 4 2 Y Droege, Rob 1 0.5 Y DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Douglass, Joe	2		1	Υ
Downs, Chris 1 0.5 Y Doxzon, Todd 1 1 0.5 N Doyle, Pat 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 N Driever, Martin 4 2 Y Driever, Michael 1 0.5 Y Droege, Rob 1 0.5 N DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Downer, Cole	1		0.5	Υ
Doxzon, Todd 1 1 0.5 N Doyle, Pat 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Driever, Martin 4 2 Y Dritlein, Michael 1 0.5 Y Droege, Rob 1 0.5 N DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Downey, Pat	1		0.5	Υ
Doyle, Pat 1 0.5 Y Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Driever, Martin 4 2 Y Driver, Michael 1 0.5 Y Droege, Rob 1 0.5 Y DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Downs, Chris	1		0.5	Υ
Doyle, Philip 1 0.5 Y Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Driever, Martin 4 2 Y Droege, Rob 1 0.5 Y Droege, Rob 1 0.5 N DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Doxzon, Todd	1	1	0.5	N
Doyle, Shane 1 0.5 Y Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Driever, Martin 4 2 Y Droege, Rob 1 0.5 Y Droege, Rob 1 0.5 Y DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Doyle, Pat	1		0.5	Υ
Dozier, Joey 1 0.5 Y Dragos, Scott 1 2 0.5 N Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Driever, Martin 4 2 Y Dritlein, Michael 1 0.5 Y Droege, Rob 1 0.5 Y DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Doyle, Philip	1		0.5	Υ
Dragos, Scott 1 2 0.5 N Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Driever, Martin 4 2 Y Dritlein, Michael 1 0.5 Y Droege, Rob 1 0.5 Y DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Doyle, Shane	1		0.5	Υ
Drake, Charles 1 0.5 Y Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Driever, Martin 4 2 Y Dritlein, Michael 1 0.5 Y Droege, Rob 1 0.5 Y DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Dozier, Joey	1		0.5	Υ
Drake, Kevin 2 1 Y Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Driever, Martin 4 2 Y Dritlein, Michael 1 0.5 Y Droege, Rob 1 0.5 Y DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Dragos, Scott	1	2	0.5	N
Draper, Shawn 1 0.5 Y Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Driever, Martin 4 2 Y Dritlein, Michael 1 0.5 Y Droege, Rob 1 0.5 Y DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Drake, Charles	1		0.5	Υ
Dreisbach, Scott 1 1 0.5 N Drew, Randee 1 0.5 Y Driever, Martin 4 2 Y Dritlein, Michael 1 0.5 Y Droege, Rob 1 0.5 Y DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Drake, Kevin	2		1	Υ
Drew, Randee 1 0.5 Y Driever, Martin 4 2 Y Dritlein, Michael 1 0.5 Y Droege, Rob 1 0.5 Y DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Draper, Shawn	1		0.5	Υ
Driever, Martin 4 2 Y Dritlein, Michael 1 0.5 Y Droege, Rob 1 0.5 Y DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Dreisbach, Scott	1	1	0.5	N
Dritlein, Michael 1 0.5 Y Droege, Rob 1 0.5 Y DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Drew, Randee	1		0.5	Υ
Droege, Rob 1 0.5 Y DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Driever, Martin	4		2	Υ
DuBose, Doug 1 2 0.5 N DuBose, KeJaun 1 0.5 Y	Dritlein, Michael	1		0.5	Υ
DuBose, KeJaun 1 0.5 Y	Droege, Rob	1		0.5	Υ
DuBose, KeJaun 1 0.5 Y	DuBose, Doug	1	2	0.5	N
Duckett, Forey 1 1 0.5 N	DuBose, KeJaun	1		0.5	Υ
	Duckett, Forey	1	1	0.5	N

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 241/11/10/ate āġed: 508/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Added Eligible Seasons (excluding	Played Only
Diover			seasons (excluding seasons beyond 5)	NFL Europe?
Player	Europe Seasons			-
Duff, Bill	3	1	1.5 0.5	N Y
Duff, Vontez Duke, Wesley	1	1		
Dukes, Terrance	1	1	0.5	Y
Dumas, Jameel	2		0.5	Y
Dunbar, Karl	1	3	0.5	N
Duncan, Julian	1	3	0.5	
Duncan, Tim	1	1	0.5	N
Dunlap, London	2	1	0.3	Y
Dunn, Anthony	1	1	0.5	N
Dunn, Jon	1	1	0.5	
Dunn, K.D.	2	5	0.5	N
Dunn, Marc	1	3	0.5	Y
Durde, Aden	5		2.5	Y
Durden, John	1		0.5	
Durham, Robert	1		0.5	Y
Durkin, Bill	1		0.5	
Dutton, Ryan	1		0.5	Y
Dyer, Nashville	1		0.5	Y
Dykes, Sean	1	1	0.5	
Dyko, Chris	1	1		
Dyson, Brandon	1		0.5	
Eafon, Kelvin	1		0.5	Y
Eaglin, Greg	1		0.5	Y
Eakin, Kevin	2		0.3	Y
Early, Michael	2		1	Y
Eason, Curtis	1		0.5	
Edeen, David	2		1	Y
Edmonds, Chris	1	2		
Edwards, Brian	1	2	0.5	
Edwards, Brock	1		0.5	
Edwards, Demetrius	1		0.5	
Edwards, Eric	1		0.5	
Edwards, Michael	2		1	Y
Edwards, Ronald	1		0.5	
Edwards, Sha-ron	1		0.5	
Edwards, Tyrone	1		0.5	
Edwards, Vernon	1	1	0.5	
Egbuniwe, Chike	1	1	0.5	
Egerton, Tim	2		0.5	
Laciton, IIII	2		1	T

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 24211/10/ate #ijed:508/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Added Eligible	Played Only
Diagram			Seasons (excluding	
Player	Europe Seasons 2		seasons beyond 5) 1	NFL Europe?
Egge, Jeroen Eiland, Deandre	1		0.5	Y
Eitzmann, Chris	1	1		N
	2	T	0.5	Y
El-Masry, John Elezovic, Peter	1		0.5	Y
Elimimian, Abraham	2		0.5	Y
Elisara, Pita	2		1	Y
Elkins, Mike	1	1	0.5	N
Ellerbe, Dewitt	1	1	0.5	Y
Ellgering, Marc	1		0.5	Y
Ellington, Dante	1	1		N
Elliott, Brett	1	T	0.5	Y
Elliott, Jamin	1	2		N
Ellis, Jamal	1	2	0.5	Y
Ellis, Kwame	1	1		N
Ellis, Lavell	1	T	0.5	Y
Ellis, Theron	1		0.5	Y
Ellis, Todd	1		0.5	Y
Elpheage, Lynaris	1		0.5	Y
Elstrom, Todd	1		0.5	Y
Emanuel, Aaron	1		0.5	Y
Emanuel, Charles	1	1	0.5	N
Emanuel, Jim	2		0.5	Y
Emanuel, Kevin	1		0.5	Y
Engelbrecht, Dennis	2		0.5	Y
Engelhardt, Tim	1		0.5	Y
Engemann, Bret	2		0.3	Y
English, Keith	1	1	0.5	N
English, Otis	1		0.5	Y
Enzor, Jamar	1	1	0.5	N
Epps, Dwan	3		1.5	Y
Epstein, Hayden	1	1	0.5	N
Erhorn, Oliver	1		0.5	Y
Erickson, Mike	1		0.5	Y
Erney, Scott	2		0.5	Y
Ervin, Corris	2		1	Y
Eskridge, John	1		0.5	Y
Eslinger, Greg	1		0.5	Y
Espinoza, Alex	2	1		N
Esposito, Jasen	1		0.5	
Lapusitu, Jasen	1		0.5	Y

CaSes#822012nd-(D0020m/ent: 00031/10331/65920-2 Pāġed 24311/1Date #ijed:508/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of		Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Estelle, Mark	1		0.5	
Estes, Mike	1		0.5	
Estes, Steve	1		0.5	
Etheredge, Carlos	2	1	0.5	N
Etnel, Marlon	1		0.5	
Eugene, Bruce	1		0.5	
Eugene, Hiram	1	5		
Evans, Brandon	1	<u> </u>	0.5	
Evans, Greg	1	2		
Evans, Jerry	1	3	0.5	
Evans, Jerton	1	3	0.5	
Evans, Joey	1		0.5	
Evans, John	2		1	
Evans, Jonathan	1		0.5	
Evans, Mike	3	1	1.5	
Evans, Stacy	1		0.5	
Evans, Willie	1		0.5	
Evwaraye, Seppo	1		0.5	
Fair, Carl	1	1	0.5	
Farkas, Kevin	2		1	Y
Farley, Scott	1		0.5	Υ
Farmer, Derek	1		0.5	
Farmer, Kirk	1		0.5	Y
Farr, Mel	1	1	0.5	N
Farrell, Todd	1		0.5	Y
Farrior, Matt	2		1	Y
Faumui, Ta'ase	1	2	0.5	N
Faunce, Troy	1		0.5	Υ
Fears, Willie	1	2	0.5	N
Feexico, Sonny	2		1	Y
Feggins, Howard	2	1	1	N
Feighery, Kevin	1		0.5	Y
Fequiere, Fritz	3		1.5	Υ
Ferguson, Nick	1	10	0	N
Fernandez, Albert	1		0.5	Υ
Ferrara, Frank	1	3	0.5	N
Feugill, John	2		1	Y
Fiebiger, Jerod	1		0.5	Y
Fiedler, Jay	1	8	0	N
Fieldings, Anthony	2	1	1	N

CaSes#822012nd-000020m/ent: 00031/10331/65920-2 Pāġed 244411/10 at @ faġed: 508/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Fields, Jaime	1	2		N
Fields, Scott	1	2	0.5	N
Fife, Jason	1		0.5	Υ
Figaro, Cedric	1	7	0	N
Fikse, Nate	1		0.5	Υ
Finch, Lonnie	1		0.5	Υ
Finke, Marcus	2		1	Υ
Finke, Patrick	2		1	Υ
Finkes, Matt	2	1	1	N
Finlen, Chris	2		1	Υ
Finn, Dan	1		0.5	Υ
Finn, Devon	1		0.5	Y
Finn, Mike	1		0.5	Υ
Fischer, Olaf	2		1	Υ
Fischer, Spence	1		0.5	Υ
Fisher, Stephen	1		0.5	Υ
Fitch, Zarnell	1		0.5	Υ
Fitzhugh, Shannon	1		0.5	Υ
Fitzpatrick, D.J.	1		0.5	Υ
Fitzpatrick, Larry	1		0.5	Υ
Fladger, Dawani	1		0.5	Υ
Flannigan, J.J.	1		0.5	Υ
Fleetwood, Marquel	1		0.5	Υ
Fleming, Antonio	1		0.5	Υ
Fleming, Terry	1		0.5	Υ
Flemming, Oliver	3		1.5	Υ
Flenoid, Bob	1		0.5	Υ
Fletcher, Bryan	2	3	1	N
Fletcher, Cecil	2		1	Υ
Fletcher, John	1	1	0.5	N
Flickinger, Robert	8		4	Υ
Florine, Ron	2		1	Υ
Flowers, Jason	1		0.5	Υ
Flowers, Little John	2		1	Υ
Flowers, Richmond	1		0.5	Υ
Floyd, Anthony	1	2	0.5	N
Floyd, Marcus	2	1		N
Floyd, Todd	2		1	Υ
Floyd, Victor	2			N
Flugence, Lawrence	1		0.5	Υ

CaSes#8220142nd-020123m/ent: 0031/1331/65920-2 Pāġed 24511/10 at @ faijed: 508/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Newsboy of NEI	Number of	Added Eligible	Dlaved Oak
Diagram	Number of NFL		Seasons (excluding	Played Only
Player Chris	Europe Seasons		seasons beyond 5) 1	NFL Europe?
Flynn, Chris	2		0.5	Y
Fobbs, Jamaal	1	2		N
Foggie, Fred Fogle, Anthony	1	2	0.5	Y
Foley, Mike	1		0.5	
Fontana, Stevan	2			Y
Foote, Montee	1		0.5	Y
Ford, Bernard	1	2	0.5	N
Ford, Chris	1	1		N
Ford, Fredric	2		0.5	Y
Ford, Willie	2		1	Y
Forde, Andre	1		0.5	Y
Forde, Brian	1	4		N
	1	4	0.5	Y
Foreman, Tyree Forsythe, Byron	2		0.5	Y
	1		0.5	Y
Fortay, Bryan Fortune, Chad	2		0.5	Y
Fortune, Elliott	1	1	0.5	N
	1	1	0.5	Y
Foster, Russel	2		0.5	Y
Foster, Sean	1		0.5	Y
Fourier Carles	1		0.5	Y
Fowler, Carlos				Y
Frager, Tim	1	1	0.5	
France, Todd	1	1	0.5 0.5	N Y
Frank Danald		C		
Frank, Donald	1 2	6	0	N Y
Frank, Garry Franklin, Brad		1		
Franklin, Gabe	1	1		
-	2		0.5	
Franklin, Harvey Franklin, Julius	1			
•			0.5	
Franklin, Keith	1	1		
Franklin, Michael	1		0.5	
Franklin, Steve	1	4	0.5	
Frazier, Lance	1			
Frazier, Paul	1	1		
Freeman, Brad	1		0.5	
Freeman, Corian	1	2	0.5	
Freeman, Eddie	2			
Freeman, Jason	1		0.5	Υ

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 24611/10/ate āġed: 508/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Freeman, Rober'	1	THE SCUSOTIS	0.5	Y
Freese, Jerry	1		0.5	Y
Frey, Greg	1		0.5	Y
Frier, T.J.	1		0.5	Y
Frieser, John	1		0.5	Y
Fritz, Luke	1		0.5	Y
Fruhmorgen, John	1		0.5	Y
Fryar, Charles	2		1	Υ
Fuller, Andy	1		0.5	Υ
Fulton, Skyler	2		1	Υ
Fumi, Steve	1		0.5	Υ
Furrer, Will	1	2	0.5	N
Gachelin, Louis	1		0.5	Υ
Gadson, Ezekial	1		0.5	Υ
Gage, Steve	1	2	0.5	N
Gaines, Cory	1		0.5	Y
Gaines, Kevin	2		1	Υ
Gaines, Teddy	1		0.5	Υ
Gaines, Wendall	1	1	0.5	N
Gaiter, Tony	1	2	0.5	N
Gaiters, Chris	1		0.5	Υ
Gales, Kenny	1		0.5	Υ
Galesloot, Arnold	1		0.5	Υ
Gallery, Jim	2	3	1	N
Gallery, Nick	1	1	0.5	N
Galloway, Ahmaad	2		1	Y
Galloway, Mitchell	1	1	0.5	N
Gamble, Jason	1		0.5	Y
Gamlin, Stefan	3		1.5	Y
Garau, Pedro	2		1	Υ
Garcia, Dani	2		1	Υ
Garcia, Juan	1		0.5	Υ
Garcia, Rafael	2		1	Υ
Garcia, Teddy	2	3	1	N
Gardent, Philippe	5		2.5	Υ
Gardner, Derrick	2	1	1	N
Garner, Randy	1		0.5	Υ
Garnett, Winfield	1	1	0.5	N
Garrett, Grant	1		0.5	
Garrett, Jason	1	10	0	N

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 24711/10/ate āġed: 508/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Garrett, John	1			· ·
Garrett, John	1		0.5	Y
Garrett, Judd	2		0.5	Y
Garrett, Kevin	1	3	0.5	N
Garten, Joe	2	3	1	Y
Gary, Willie	1	1	0.5	N
Gasperson, Michael	1	1		
Gasser, Howard	1	_	0.5	Y
Gatlin, Todd	1		0.5	Y
Gatrell, Rob	2		1	Y
Gause, George	1		0.5	
Gay, Matt	3	1	1.5	N
Gámez, Alejandro	5		2.5	
Geason, Cory	1	3	0.5	
Gehloff, Sascha	2		1	Y
Gelzheiser, Brian	1		0.5	Y
Genord, Scott	2		1	Y
George, Spencer	1	3	0.5	N
George, Tony	1	2	0.5	N
Georgiev, Vladimir	1		0.5	Υ
Gerhart, Tom	1	1	0.5	N
Gerigk, Patrick	1		0.5	Y
Germaine, Joe	1	2	0.5	N
Gessner, Chas	1	1	0.5	N
Getherall, Joey	1		0.5	Υ
Gholston, Kendrick	1		0.5	Υ
Gianacakos, Nick	1		0.5	Υ
Gibbons, Ryan	1		0.5	Υ
Gibbs, Stan	1		0.5	Υ
Gibson, Damon	1	4	0.5	N
Gieselman, John	1		0.5	Υ
Gilbert, Greg	2		1	Y
Gilbert, O'Neill	1		0.5	Y
Gilbreath, Monty	2		1	Y
Gillespie, Robert	1		0.5	Υ
Gilliard, Cory	1		0.5	
Gilmore, John	1		0.5	
Gilmore, Zain	1		0.5	
Giroud, Thibault	1		0.5	
Gissendaner, Lee	1		0.5	Y

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 24811/10/ate āġed: 508/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Addad Eligible	
	Number of NFL	Number of	Added Eligible Seasons (excluding	Played Only
Diavar			seasons beyond 5)	NFL Europe?
Player Civan Brandon	Europe Seasons 1		0.5	
Givan, Brenden	1		0.5	Y
Glass, John	2		0.5	Y
Glass, Myron Glasson, Steve	1		0.5	Y
Glenn, O'Neil	1		0.5	
Glover, Deval	1		0.5	Y
Goda, Masakazu	2		0.5	Y
Godsey, Brandon	1		0.5	Y
Goelabdien, Haroen	1		0.5	Y
Goetz, Ron	2		0.5	Y
Golliday, Aaron	1		0.5	Y
Golliday, Toby	2		0.5	Y
Gomez, Guillermo	2		1	Y
Gomez, Mike	1		0.5	Y
Gonzalez, Dan	1		0.5	
Goodman, Herbert	1		0.5	N
Goodwell, Tim	1		0.5	
Goodwin, Marvin	1		0.5	Y
Gordon, Cedric	1		0.5	Y
Gordon, Clemente	1		0.5	Y
Gordon, David	1		0.5	
Gordon, Joe	1		0.5	Y
Gordon, Tracy	1		0.5	Y
Grabisna, Erwin	1		0.5	Y
Grace, Steve	1	1		N
Graetz, Raphael	2		1	Y
Gragert, Brian	1		0.5	Y
Gragg, Harold	2		1	Y
Graham, Dan	1		0.5	
Graham, Jeff	1		0.5	
Graham, Lorenzo	1		0.5	
Grant, African	1		0.5	
Grant, Eddie	2		1	
Grant, Michael	1		0.5	
Grant, Robert	1		0.5	
Grant, Troy	2		0.5	Y
Graves, Broderick	1		0.5	
Gray, Anthony	1		0.5	
Gray, Brian	1		0.5	
Gray, Jamie	2		0.5	

CaSes#822012nd-(D0031)ment: 0031/10331/65920-2 Pāġed 24911/1Date āġed:508/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Gray, Oscar	1	1	_	N
Gray, Quinn	1	4	0.5	N
Gray, Terry	2	-	1	Y
Graybill, Mike	1	1	0.5	N
Green, Anthony	1		0.5	
Green, Cornell	1	8	0	N
Green, DeJuan	1		0.5	Υ
Green, Gaston	1	5	0	N
Green, Jeff	1		0.5	
Green, Lamont	1	1	0.5	
Green, Louis	1	5		N
Green, Roderick	1		0.5	Υ
Green, Rogerick	1	3		N
Greene, Anthony	2		1	Υ
Greene, Leonard	2		1	Υ
Greene, Tirrell	1		0.5	Υ
Greenfield, Brian	2		1	Υ
Greenwood, Joe	2		1	Υ
Greer, Daniel	1		0.5	Υ
Gregersen, Marico	4		2	Υ
Greisen, Chris	1	3	0.5	N
Grice, Shane	1	1	0.5	N
Grieb, Mark	1		0.5	Υ
Grier, Daemeon	1		0.5	Υ
Grier, James	1		0.5	Υ
Grier, Marrio	1	2	0.5	N
Grier, Profail	1		0.5	Υ
Griffin, Pernell	1		0.5	Υ
Griffin, Quentin	1	2	0.5	N
Grigsby, Otis	1	3	0.5	N
Grimes, Reggie	1	1	0.5	N
Groh, Michael	1		0.5	Υ
Gronroos, Kari	1		0.5	Υ
Gross-Pass, Peter	3		1.5	Υ
Grot, Amilcar	1		0.5	Υ
Grove, Kyle	1		0.5	Υ
Gruden, Jay	2		1	Υ
Grzeskowiak, Jeff	1		0.5	Υ
Guardia, Matt	1		0.5	Υ
Guenther, Eric	2		1	Υ

CaSes#822012nd-000000m/ent: 0000110331165920-2 Pāġed 25011/10 at @ āġed: 608/09/2019 Eligible Seasons Added by Credit for NFL Europe

Player Europe Seasons NFL Seasons (excluding Seasons beyond 5) Guerrero, Alex 1 Added Eligible Played On Seasons (excluding Seasons beyond 5) NFL Europe Seasons 1 O.5	
Player Europe Seasons NFL Seasons seasons beyond 5) NFL Europe Guerrero, Alex 1 0.5	e? Y
Guerrero, Alex 1 0.5	Υ
Cuerrore John	Υ
Guerrero, John 1 0.5	
Guest, Craig 0.5	Y
Guidry, Kevin 1 2 0.5	N
Guidry, Mickey 2	Y
Gumina, Scott 1 0.5	Y
Gunn, Lance 1 0.5	N
Gunn, Tony 1 0.5	Y
Gurley, Buck 1 0.5	N
Gustafsson, Jorgen 2	Υ
Gustin, Billy 2	Υ
Gutekunst, Samuel 3	Υ
Guthrie, Sean 2	Υ
Guy, Daniel 0.5	Υ
Guynes, Thomas 2 1 1	N
Haase, Andy 1 0.5	N
Habermann, Frank 1 0.5	Υ
Hackemack, Ken 1 0.5	Υ
Haering, Chris 0.5	Υ
Hagood, Jay 3 1 1.5	Ν
Hall, Ben 2	Υ
Hall, Chris 4 1 2	Ν
Hall, Jason 0.5	Υ
Hall, Joe 0.5	Υ
Hall, Mike 0.5	Υ
Hall, Ricky 2	Υ
Hall, Robert 0.5	Υ
Hall, Tramain 0.5	Υ
Hall, Victor 0.5	Υ
Halterman, Aaron 1 0.5	Ν
Ham, Derrick 1 2 0.5	N
Hambrick, Kenyon 1 0.5	Υ
Hamdan, Gibran 3 4 1	Ν
Hamilton, Bobby 1 12 0	Ν
Hamilton, Joe 2 0.5	Ν
Hamilton, Kadar 0.5	Υ
Hamiter, Uhuru 1 3 0.5	Ν
Hammel, Todd 0.5	Υ
Hammerschmidt, Jeff 1 0.5	Υ
Hammond, Vance 1 0.5	Υ

CaSes#8220142nd-020123m/ent: 0031/1331/65920-2 Pāġed 251/11/10/ate āġed: 608/69/2019 Eligible Seasons Added by Credit for NFL Europe

Number of NFL Number of NFL Seasons Seasons Seculating NFL Seasons NFL S				A.I. 160 U.	
Player Europe Seasons NFL Seasons seasons beyond 5) NFL Europe? Hammoudi, Samyr 5 2.5 Y Hampton, Alonzo 2 1 Y Hampton, Alonzo 1 1 0.5 N Hand, Omari 1 1 0.5 N Hands, Ben 1 2 0.5 N Hannah, Jim 1 1 0.5 N Hannah, Mick 1 0.5 Y Hannah, Travis 1 3 0.5 Y Handour, Dave 2 2 1 N Hardbour, Dave 2 2 1 N Harden, Gedric 1 1 0.5 Y Harden, Michael 1 1 0.5 N Hardin, Travis 1 0.5 Y Hardy, Anthony 1 0.5 Y Hardy, John 1 0.5 N Hardy, John 1 0.5<				Added Eligible	51 16 1
Hamoudi, Samyr 5 2.5 Y Hample, Olaf 5 2.5 Y Hampton, Alonzo 2 1 Y Hand, Omari 1 1 0.5 N Hanks, Ben 1 2 0.5 N Hanna, Jim 1 1 0.5 N Hannah, Nick 1 0.5 Y Hannah, Travis 1 3 0.5 N Hanolan, Greg 1 0.5 Y Harbour, Dave 2 2 1 N Hardaway, Eddie 1 0.5 Y Harden, Cedric 1 1 0.5 N Harden, Michael 1 1 0.5 N Harden, Michael 1 1 0.5 N Hardmon, Byron 3 1.5 Y Hardy, Jermaine 1 0.5 Y Hardy, Jermaine 1 1 0.5 N Hardy, John 1 1 0.5 N Hardy, John	_,				
Hampel, Olaf Hampton, Alonzo Hampton, Alonzo Hand, Omari Hanks, Ben Hanna, Jim Hanna, Jim Hanna, Nick Hannah, Nick Hannah, Travis Hanoian, Greg Harbour, Dave Hardour, Cedric Harden, Cedric Harden, Michael Hardin, Travis Hardin, Byron Hardy, Anthony Hardy, Jermaine Hardy, Jermaine Hardy, Jermaine Hardy, John Hard, Brian Hardy, John Hare, Brian Hare, Brian Hare, Stuart Hargrave, James Hargrove, Marvin Hargrove, Reggie Harley, David Harden, David Harmon, Eric Harmon, Jason Harrell, Chris Harrell, Chris Harrell, Gary Harley, Gary Harley, Cost Harrell, Greg	<u> </u>		NFL Seasons		
Hampton, Alonzo 2 1 1 Y Y Hand, Omari 1 1 0.5 N Hanks, Ben 1 2 0.5 N Hanna, Jim 1 1 0.5 N Hannah, Nick 1 0.5 Y Hannah, Travis 1 3 0.5 N Hannah, Travis 1 3 0.5 Y Harbour, Dave 2 2 1 N N Hardaway, Eddie 1 0.5 Y Harden, Cedric 1 1 0.5 N Harden, Michael 1 1 0.5 N Harden, Michael 1 1 0.5 N Hardon, Byron 3 1.5 Y Hardy, Jehrnah 1 1 0.5 N Hargrove, Marvin 1 1 0.5 N Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harmon, Jason 1 0.5 Y Harmon, Jason 1 0.5 Y Harmon, Jason 1 0.5 Y Harper, James 1 0.5 Y Harper, James 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N N Harrell, Chris 1 0.5 N Harrell, Greg 1 0.5 Y Harrell, Greg 1 0.5					
Hand, Omari 1 1 1 0.5 N Hanks, Ben 1 2 0.5 N Hanna, Jim 1 1 1 0.5 N Hannah, Nick 1 0.5 Y Hannah, Travis 1 3 0.5 N Hanolan, Greg 1 0.5 Y Harbour, Dave 2 2 1 1 N Hardaway, Eddie 1 0.5 Y Harden, Cedric 1 1 0.5 N Harden, Michael 1 1 0.5 N Harden, Michael 1 1 0.5 N Hardoun, Travis 1 0.5 Y Hardon, Byron 3 1.5 Y Hardy, Anthony 1 0.5 N Hardy, John 1 1 0.5 N Hardy, John 1 1 0.5 N Hare, Stuart 2 1 Y Hargrave, James 1 0.5 Y Hargrove, Reggie 1 0.5 Y Hargrove, Reggie 1 0.5 Y Harmon, Jason 1 0.5 Y Harmon, Jason 1 0.5 Y Harper, James 1 0.5 Y	• •				
Hanks, Ben 1 2 0.5 N Hanna, Jim 1 1 0.5 N Hannah, Nick 1 0.5 Y Hannah, Travis 1 3 0.5 N Hanoian, Greg 1 0.5 Y Harbour, Dave 2 1 1 N Hardaway, Eddie 1 0.5 N Harden, Cedric 1 1 0.5 N Harden, Michael 1 1 0.5 N Hardin, Travis 1 0.5 Y Hardmon, Byron 3 1.5 Y Hardwy, Jermaine 1 1 0.5 N Hardy, Jermaine 1 1 0.5 N Hare, Stuart 2 1 1 0.5 N Hargrave, James 1 0.5 Y Hargrove, Reggie 1 0.5 Y Hargrove, Reggie 1 0.5 Y Harmon, Jason 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Shawn 2 1 1 N Harper, Shawn 2 1 1 N Harper, Shawn 2 1 1 N Harell, Greg 1 0.5 Y Harrell, Greg					
Hanna, Jim 1 1 0.5 N Hannah, Nick 1 0.5 Y Hannah, Travis 1 3 0.5 N Hanoian, Greg 1 0.5 Y Harbour, Dave 2 2 2 1 N Hardway, Eddie 1 0.5 N Harden, Cedric 1 1 0.5 N Harden, Michael 1 1 0.5 N Hardin, Travis 1 0.5 Y Hardmon, Byron 3 1.5 Y Hardmon, Byron 1 1 0.5 N Hardy, Jermaine 1 1 0.5 N Hardy, Jermaine 1 1 0.5 N Hare, Brian 1 0.5 N Hare, Stuart 2 1 Y Hargrave, James 1 0.5 Y Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harmon, Jason 1 0.5 Y Harnen, Shawn 2 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y					
Hannah, Nick 1 0.5 Y Hannah, Travis 1 3 0.5 N Hanoian, Greg 1 0.5 Y Harbour, Dave 2 2 1 N Hardway, Eddie 1 0.5 Y Hardway, Eddie 1 1 0.5 N Harden, Cedric 1 1 0.5 N Harden, Michael 1 1 0.5 N Hardin, Travis 1 0.5 N Hardun, Byron 3 1.5 Y Hardmon, Byron 3 1.5 Y Hardway, Anthony 1 0.5 Y Hardy, Jermaine 1 1 0.5 N Hardy, Jermaine 1 1 0.5 Y					
Hannah, Travis 1 3 0.5 N Hanoian, Greg 1 1 0.5 Y Harbour, Dave 2 2 1 1 N Hardaway, Eddie 1 0.5 Y Harden, Cedric 1 1 0.5 N Harden, Michael 1 1 0.5 N Hardin, Travis 1 0.5 Y Hardon, Byron 3 1.5 Y Hardy, Anthony 1 0.5 N Hardy, Jermaine 1 1 0.5 N Hardy, John 1 1 0.5 N Hare, Brian 1 0.5 N Hare, Stuart 2 1 Y Hargrave, James 1 0.5 Y Hargrove, Reggie 1 0.5 N Hargrove, Reggie 1 0.5 Y Harmon, Fric 1 0.5 Y Harmon, Jason 1 0.5 Y Harper, James 1 0.5 Y Harper, James 1 0.5 Y Harper, James 1 0.5 Y Harmon, Jason 1 0.5 Y Harper, James 1 0.5 Y Harper, James 1 0.5 Y Harper, James 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 0.5 Y Harper, Shawn 2 1 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y			1		
Hanoian, Greg 1 0.5 Y Harbour, Dave 2 2 1 1 N Hardaway, Eddie 1 0.5 Y Harden, Cedric 1 1 0.5 N Harden, Michael 1 1 0.5 N Hardin, Travis 1 0.5 Y Hardmon, Byron 3 1.5 Y Hardy, Jermaine 1 1 0.5 N Hardy, John 1 1 0.5 N Hare, Brian 1 0.5 N Hare, Stuart 2 1 Y Hargave, James 1 0.5 Y Hargove, Marvin 1 1 0.5 N Hargly, David 1 0.5 N Harly, David 1 0.5 N Harnon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Greg 1 0.5 Y Harrell, Greg					
Harbour, Dave 2 2 1 N Hardaway, Eddie 1 0.5 Y Harden, Cedric 1 1 0.5 N Harden, Michael 1 1 0.5 N Hardin, Travis 1 0.5 Y Hardmon, Byron 3 1.5 Y Hardw, Anthony 1 0.5 Y Hardy, Jermaine 1 1 0.5 N Hardy, John 1 1 0.5 N Hare, Brian 1 0.5 Y Hare, Stuart 2 1 Y Hargrave, James 1 0.5 Y Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N	· ·		3		
Hardaway, Eddie 1 0.5 Y Harden, Cedric 1 1 1 0.5 N Harden, Michael 1 1 1 0.5 N Hardin, Travis 1 0.5 Y Hardmon, Byron 3 1.5 Y Hardy, Anthony 1 0.5 N Hardy, Jermaine 1 1 0.5 N Hardy, John 1 1 0.5 N Hare, Brian 1 0.5 Y Hargrave, James 1 0.5 Y Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harper, James 1 0.5 Y Harper, James 1 0.5 Y Harper, James 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y				0.5	Υ
Harden, Cedric 1 1 0.5 N Harden, Michael 1 1 0.5 N Hardin, Travis 1 0.5 Y Hardmon, Byron 3 1.5 Y Hardy, Anthony 1 0.5 Y Hardy, Jermaine 1 1 0.5 N Hardy, John 1 1 0.5 N Hare, Brian 1 0.5 Y Hare, Stuart 2 1 Y Hargrave, James 1 0.5 Y Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Gary 1 0.5 N <tr< td=""><td>Harbour, Dave</td><td>2</td><td>2</td><td>1</td><td>N</td></tr<>	Harbour, Dave	2	2	1	N
Harden, Michael 1 1 0.5 N Hardin, Travis 1 0.5 Y Hardmon, Byron 3 1.5 Y Hardy, Anthony 1 0.5 Y Hardy, Jermaine 1 1 0.5 N Hardy, John 1 1 0.5 N Hare, Brian 1 0.5 Y Hare, Stuart 2 1 Y Hargrave, James 1 0.5 Y Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N <tr< td=""><td>Hardaway, Eddie</td><td>1</td><td></td><td>0.5</td><td></td></tr<>	Hardaway, Eddie	1		0.5	
Hardin, Travis 1 0.5 Y Hardmon, Byron 3 1.5 Y Hardy, Anthony 1 0.5 Y Hardy, Jermaine 1 1 1 0.5 N Hardy, John 1 1 1 0.5 N Hare, Brian 1 0.5 Y Hare, Stuart 2 1 1 Y Hargrave, James 1 0.5 Y Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harper, James 1 0.5 Y Harper, James 1 0.5 Y Harper, James 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 1 1 0.5 Y Harrell, Gary 1 1 1 0.5 N Harrell, Greg 1 0.5 Y	Harden, Cedric		1	0.5	N
Hardmon, Byron 3 1.5 Y Hardy, Anthony 1 0.5 Y Hardy, Jermaine 1 1 0.5 N Hardy, John 1 1 0.5 N Hardy, John 1 1 0.5 Y Hare, Brian 1 0.5 Y Hare, Stuart 2 1 Y Hargrave, James 1 0.5 Y Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 N Harrell, Gary 1 1 0.5 N Harper, Shawn 2 1 1 N <	Harden, Michael	1	1	0.5	N
Hardy, Anthony 1 0.5 Y Hardy, Jermaine 1 1 0.5 N Hardy, John 1 1 0.5 N Hare, Brian 1 0.5 Y Hare, Stuart 2 1 Y Hargrave, James 1 0.5 Y Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Hardin, Travis			0.5	
Hardy, Jermaine 1 1 1 0.5 N Hardy, John 1 1 1 0.5 N Hare, Brian 1 0.5 Y Hare, Stuart 2 1 Y Hargrave, James 1 0.5 Y Hargrove, Marvin 1 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Hardmon, Byron	3		1.5	Υ
Hardy, John 1 1 0.5 N Hare, Brian 1 0.5 Y Hare, Stuart 2 1 Y Hargrave, James 1 0.5 Y Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Hardy, Anthony	1		0.5	Υ
Hare, Brian 1 0.5 Y Hare, Stuart 2 1 1 Y Hargrave, James 1 0.5 Y Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Hardy, Jermaine	1	1	0.5	N
Hare, Stuart 2 1 Y Hargrave, James 1 0.5 Y Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Hardy, John	1	1	0.5	N
Hargrave, James 1 0.5 Y Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Hare, Brian	1		0.5	Υ
Hargrove, Marvin 1 1 0.5 N Hargrove, Reggie 1 0.5 Y Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Hare, Stuart	2		1	Υ
Hargrove, Reggie 1 0.5 Y Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Hargrave, James	1		0.5	Υ
Harley, David 1 0.5 Y Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Hargrove, Marvin	1	1	0.5	N
Harmon, Eric 1 0.5 Y Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Hargrove, Reggie	1		0.5	Υ
Harmon, Jason 1 0.5 Y Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Harley, David	1		0.5	Υ
Harney, Kenny 1 0.5 Y Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Harmon, Eric	1		0.5	Υ
Harper, James 1 0.5 Y Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Harmon, Jason	1		0.5	Υ
Harper, Shawn 2 1 1 N Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Harney, Kenny	1		0.5	Υ
Harrell, Chris 1 0.5 Y Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Harper, James	1		0.5	Υ
Harrell, Gary 1 1 0.5 N Harrell, Greg 1 0.5 Y	Harper, Shawn	2	1	1	N
Harrell, Greg 1 0.5 Y	Harrell, Chris	1		0.5	Υ
, 0	Harrell, Gary	1	1	0.5	N
Harriett Claude	Harrell, Greg	1		0.5	Υ
namou, claude 1 U.5 Y	Harriott, Claude	1		0.5	Υ
Harris, A.J. 0.5 Y	Harris, A.J.	1		0.5	Υ
Harris, Aaron 0.5 Y	Harris, Aaron	1		0.5	Υ
Harris, Bobby 1 0.5 Y		1		0.5	Υ
Harris, Brad 0.5 Y		1		0.5	Υ
Harris, Darryl 2 1 1 N	Harris, Darryl	2	1	1	N
Harris, Elliott 1 0.5 Y	-	1		0.5	Υ
Harris, Elroy 2 1 1 N		2	1	1	N

CaSes#8220142nd-020123m/ent: 003111331165920-2 Pāġed 25211/1Date āġed: 608/09/2019 Eligible Seasons Added by Credit for NFL Europe

Player Harris, Erick Harris, George	Number of NFL Europe Seasons	Number of	Added Eligible Seasons (excluding	
Player Harris, Erick		number of		Dlayad Oaly
Harris, Erick	Europe Seasons	NIEL Concerns		Played Only
·		NFL Seasons	seasons beyond 5)	NFL Europe?
DALLIS GEOLDE	3		1.5	Y
. •	1		0.5	Y
Harris, Gerald Harris, Ike	1		0.5	Y
Harris, Jeff	1		0.5	Y
Harris, Jon	1	2	0.5	N
Harris, Kelvin	1	2	0.5	Y
Harris, Kenny	1	1	0.5	N
Harris, Lee	1	1	0.5	Y
Harris, Michael	1	1	0.5	N
Harris, Rashad	2	1	0.5	Y
Harris, Sterling	1		0.5	Y
Harris, Steven	1		0.5	Y
Harris, Travis	1		0.5	Y
Harris, Willie	1		0.5	Y
Harris, Wyatt	1		0.5	Y
Harrison, Kevin	1	1	0.5	N
Harrison, Tony	2		0.5	Y
Hart, Clinton	1	7	0	N
Hart, Lawrence	1	1	0.5	N
Hart, Rob	7	1	3.5	Y
Hartsell, Mark	1	1	0.5	N
Harvey, Jasper	1	<u> </u>	0.5	Y
Harvey, Stacy	1	1	0.5	N
Hasegawa, Syoei	1	1	0.5	Y
Hastings, Gavin	1		0.5	Y
Hatcher, Armon	2	1	1	N
Hatega, Francis	1		0.5	Y
Hatzky, Wolfgang	1		0.5	Y
Haw, Brandon	1		0.5	Y
Hawkes, Michael	1	2	0.5	N
Hawkins, Ahmad	1		0.5	Y
Hawkins, Joey	1		0.5	Y
Hawkins, Phil	1		0.5	Y
Hay, Shawn	1		0.5	Y
Hayes, Chad	2		1	Y
Hayes, Joseph	1		0.5	Y
Hayes, Lionel	1		0.5	Y
Haygood, Herb	1	1	0.5	N
Haynes, Alex	1	2		

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			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Haynes, Jesse	2		1	Y
Hazuga, Jeff	1	1	0.5	N
Heckenbach, Jörg	8		4	Y
Heidenreich, Jon	1		0.5	Y
Heimburger, Craig	1	2	0.5	
Heiner, Jamie	1		0.5	Y
Heinonen, Eero	1		0.5	Y
Helfman, Marcus	2		1	Y
Helms, Gabriel	1		0.5	Y
Henderson, Joe	1		0.5	Y
Henderson, Taurean	1		0.5	
Hendricks, Bart	1		0.5	Y
Hendricks, Carlos	1		0.5	Y
Hendrix, Kevin	2		1	Y
Henke, Brad	1	1	0.5	
Henry, Cedric	1	_	0.5	Y
Henry, Charles	1	1		N
Henry, James	2	_	1	Y
Henry, Keron	1		0.5	Y
Henry, Mario	1		0.5	Y
Henry, William	1		0.5	
Henson, Drew	1	3	0.5	N
Henton, Anthony	2	2		
Hernandez, Adam	1		0.5	Y
Herndon, Kelly	1	6		N
Herrell, Ben	2		1	Y
Herrington, Harvie	1		0.5	Υ
Herrion, Atlas	1		0.5	Y
Herrion, Thomas	1		0.5	Y
Herzing, Adam	2		1	Y
Hess, Bill	1		0.5	Υ
Hesse, Jon	2	1	1	N
Heuer, Norman	2		1	Υ
Hewitt, Andre	2		1	Υ
Heyer, Peter	5		2.5	Y
Heyward-Johnson, Keith	1		0.5	Y
Hickerson, Eric	1		0.5	Y
Hickl, Matthew	1		0.5	Y
Hicks, Anthony	1		0.5	Y
Hicks, Jordan	1		0.5	Y

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Player Hicks, Kerry Hicks, Maurice Hicks, Michael Hicks, Reese Hicks, Skip Higgins, Robert Hilbert, Jon Hill, Charles Hill, Derek			Added Eligible Seasons (excluding seasons beyond 5) 0.5 0 0.5 0.5 0.5 0.5	Played Only NFL Europe? N N Y Y
Player Hicks, Kerry Hicks, Maurice Hicks, Michael Hicks, Reese Hicks, Skip Higgins, Robert Hilbert, Jon Hill, Charles Hill, Derek	pe Seasons 1 1 1 1 1 1 1 1 1	NFL Seasons 1 5	seasons beyond 5) 0.5 0 0.5 0.5 0.5	NFL Europe? N N Y Y
Hicks, Kerry Hicks, Maurice Hicks, Michael Hicks, Reese Hicks, Skip Higgins, Robert Hilbert, Jon Hill, Charles Hill, Derek	1 1 1 1 1 1 1	1 5	0.5 0 0.5 0.5 0.5	N N Y Y
Hicks, Maurice Hicks, Michael Hicks, Reese Hicks, Skip Higgins, Robert Hilbert, Jon Hill, Charles Hill, Derek	1 1 1 1 1	4	0 0.5 0.5 0.5	N Y Y
Hicks, Michael Hicks, Reese Hicks, Skip Higgins, Robert Hilbert, Jon Hill, Charles Hill, Derek	1 1 1 1	4	0.5 0.5 0.5	Y Y
Hicks, Reese Hicks, Skip Higgins, Robert Hilbert, Jon Hill, Charles Hill, Derek	1 1 1 1		0.5 0.5	Y
Hicks, Skip Higgins, Robert Hilbert, Jon Hill, Charles Hill, Derek	1 1 1		0.5	
Higgins, Robert Hilbert, Jon Hill, Charles Hill, Derek	1 1			IN
Hillbert, Jon Hill, Charles Hill, Derek	1	2	0.5	Υ
Hill, Charles Hill, Derek		2	0.5	N
Hill, Derek	±	1	0.5	N
	2	2	0.5	N
Hill, Eric	1	2	0.5	Y
Hill, James	1	1	0.5	N
Hill, Madre	1	2	0.5	N
Hill, Marcus	1	2	0.5	Y
Hill, Matt	1	2	0.5	N
Hill, Nate	2	1	0.5	N
Hill, Shelby	1		0.5	Y
Hilliard, Cedric	1		0.5	Y
Hillman, Jay	1		0.5	Y
Hilton, Isaac	1		0.5	Y
Himebauch, Jonathan	2		0.5	Y
Hinchcliff, Willie	1		0.5	Y
Hines, Clarkston	1		0.5	Y
Hinnant, Mike	1	3	0.5	N
Hinton, Marcus	1	1	0.5	N
Hinton, Patrick	1	1	0.5	Y
Hippler, Werner	11		5	Y
Hiruma, Shingo	2		1	Y
Hoag, Ryan	1		0.5	Y
Hobbs, Ed	1		0.5	Y
Hodge, Milford	1	4	0.5	N
Hodges, Howard	1		0.5	Y
Hoelscher, David	3	1	1.5	N
Hoffman, Jim	1	-	0.5	Y
Hoffman, Ryan	2		1	Y
Hoffmann, Augie	1		0.5	Y
Hoffmann, Dave	1	1	0.5	N
Hofland, Mark	1	1	0.5	Y
Hogan, Chauncey	1		0.5	Y
Hogans, Richard	2		0.5	Y
Hogg, Matthew	2		1	Y

			Added Flieble	
	No. of No. of No.	N	Added Eligible	
51		Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Holcomb, Kelly	1	9		N
Holder, Rod	1		0.5	Υ
Holland, John Robert	2		1	Υ
Holleman, Chad	1		0.5	Υ
Hollenbeck, Joey	1		0.5	
Holliday, Tommy	1		0.5	Υ
Hollings, Tony	1	3		N
Holloway, Brian	1	8	0	N
Holloway, Derek	1	2	0.5	N
Holm, Joakim	1		0.5	Υ
Holmes, Brian	1		0.5	Υ
Holmes, Darryl	2	3	1	N
Holt, Cedrick	1		0.5	Υ
Holt, Reggie	1		0.5	Υ
Homer, Derek	1		0.5	
Homer, Kevin	1		0.5	Υ
Hood, Kerry	1		0.5	Υ
Hooven, Owen	1		0.5	Υ
Hope, Charles	1	1	0.5	N
Hopkins, Mark	2		1	Υ
Hopkins, Tam	1	1	0.5	N
Hori, Ryota	2		1	Υ
Horie, Nobutaka	1		0.5	Υ
Horiguchi, Yasushi	1		0.5	Υ
Horne, Greg	2	2	1	N
Horton, Jon	1		0.5	Υ
Hosack, Aaron	3		1.5	Υ
Hotchkiss, Josh	1		0.5	Υ
Houchin, Thomas	1		0.5	Υ
House, Kevin	2	2	1	N
Houston, Artis	1		0.5	Υ
Houston, Samario	1		0.5	Υ
Howard, Abdual	2		1	Υ
Howard, Bobbie	1	3	0.5	N
Howard, Dana	1	2	0.5	N
Howard, Edwin	1		0.5	Υ
Howard, James	1		0.5	Υ
Howard, Todd	2		1	Υ
Howard, Todd	2	1	1	N
Howe, Garry	3		1.5	

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Howell, Evan	1		0.5	
Hoyem, Steve	1	1	0.5	N
Hoyle, Wilson	1		0.5	Y
Hoyte, Nigel	1		0.5	Y
Huckestein, Ray	1		0.5	
Hudson, Craig	1		0.5	Y
Hudson, Gerald	1		0.5	
Huerta, Carlos	1	1	0.5	N
Huff, Richard	1	_	0.5	Y
Huggins, Felton	1	1	0.5	N
Hughes, Connor	1		0.5	
Hughes, Darren	1		0.5	Y
Humes, Cedric	1		0.5	Y
Humphery, Bobby	1	7	0	N
Humphrey, Aaron	1		0.5	Y
Humphrey, Jay	1		0.5	Y
Hunt, Aaron	1		0.5	
Hunt, Jack	1	1	0.5	N
Hunt, Purvis	3		1.5	Υ
Hunt, Reggie	1		0.5	Y
Hunt, Robert	1		0.5	Υ
Hunt, Robert	2		1	Υ
Hunter, Arthur	2		1	
Hunter, Dameon	1	1	0.5	N
Hunter, Earnest	1	2	0.5	N
Hunter, Hugh	2		1	Υ
Hunter, Jeff	2	5	0	N
Hunter, Malvin	1		0.5	Υ
Hunter, Torey	1	1	0.5	N
Hunter, Wendell	1		0.5	Y
Hunter, Will	1	2	0.5	N
Hurst, Kevin	1		0.5	Y
Hurtado, Jonathan	2		1	Υ
Husak, Todd	1	1	0.5	N
Husar, Mike	2		1	Υ
Husby, John	1		0.5	Υ
Hutchinson, Stephen	4		2	Υ
Hutton, Trevor	1	1	0.5	N
Hybl, Nate	1	1	0.5	N
Hyder, Gaylon	1	2	0.5	N

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Hyllienmark, John	1	IVI L Seasons	0.5	Y
Icsman, Don	1		0.5	Y
Ikenoue, Takahiro	2		0.5	Y
Ilic, Vladimir	4		2	Y
Imbernon, Ivan	5		2.5	Y
Imoto, Yoshinobu	1		0.5	Y
Ingoglia, Rene	1		0.5	Y
Ingram, Jonathan	1	1	0.5	N
Inkrott, Mark	1		0.5	Y
Irvin, Sedrick	1	2	0.5	N
Isabelle, Yubrenal	2	_	1	Y
Ishida, Rikiya	4		2	Y
Ishola, Ben	1		0.5	Y
Ismaeli, Hudhaifa	1		0.5	Y
Ismail, Hesham	1		0.5	Y
Israel, Ron	1	1	0.5	N
Issa, Jabari	1	2	0.5	N
Itai, Masato	3		1.5	Υ
Ito, Shigemasa	1		0.5	Υ
Ivanov, Sergey	3		1.5	Υ
Ivory, Clifford	1		0.5	Υ
Ivy, Corey	1	9	0	N
Ivy, Greg	1		0.5	Υ
Ivy, Khori	1		0.5	Υ
Jacas, Andrew	1		0.5	Υ
Jackson, Bobby	1		0.5	Υ
Jackson, Charles	2		1	Υ
Jackson, Chris	1		0.5	Υ
Jackson, Harry	2		1	Υ
Jackson, Jabari	1		0.5	Υ
Jackson, Jerry	1		0.5	Υ
Jackson, Joe	1		0.5	Υ
Jackson, Jonathan	1	1	0.5	N
Jackson, Junior	2		1	Υ
Jackson, Kenny	2		1	Υ
Jackson, Larry	1		0.5	Υ
Jackson, Les	1		0.5	Υ
Jackson, Mario	1		0.5	Υ
Jackson, Marlion	1			
Jackson, Orsorio	1		0.5	Υ

			Added Elicible	
	Name to a set NIFI	Niverskan of	Added Eligible	Discord Only
Diaman	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Jackson, Pasha	1		0.5	Y
Jackson, Patrick	1		0.5	
Jackson, Ray	1			
Jackson, Ray	1		0.5	Y
Jackson, Ray	2		1	Y
Jackson, Robert	1		0.5	Y
Jackson, Tim	1	1		
Jackson, Vershan	1		0.5	Υ
Jacobs, Joel	1		0.5	Υ
Jacobs, John	1		0.5	Υ
Jacobs, Omar	1		0.5	
James, Cedric	1		0.5	N
James, Tim	1		0.5	Υ
James, Walter	1		0.5	Υ
Jamison, Jermaine	1		0.5	
Jasmin, Marcus	1		0.5	Υ
Jeffcoat, Jerold	2		1	Υ
Jefferson, Ben	1	1	0.5	N
Jefferson, Kevin	1	2	0.5	N
Jeffery, Tony	1	1	0.5	N
Jemison, Mike	1		0.5	Υ
Jenkins, A.J.	2	2	1	N
Jenkins, J.R.	1	1	0.5	N
Jenkins, Keith	1		0.5	Υ
Jenkins, Mike	1	1	0.5	N
Jennings, Ligarius	1	2	0.5	N
Jennings, Michael	1	1	0.5	N
Jensen, Erik	1		0.5	Υ
Jensen, Mark	1		0.5	
Jeromin, Christoph	1		0.5	
Jimenez, Jason	2		1	Υ
Jimerson, A.J.	1		0.5	
Joder, Helmut	1		0.5	
Johansson, Jesper	1		0.5	
John-Lewis, Kelly	1		0.5	
Johnson, Aaron	1		0.5	
Johnson, Albert	1			
Johnson, Alonzo	2			
Johnson, Andre	1		0.5	
Johnson, Ben	2		0.3	
Johnson, Ben	Z		1	Y

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			Added Eligible	
	Number of NFL	Number of	Added Eligible Seasons (excluding	Played Only
Dlaver				
Player Prian	Europe Seasons		seasons beyond 5)	NFL Europe?
Johnson, Brian	2	1	0.5	N N
Johnson, Chuckie Johnson, Clyde	1	1		N
•	1	2	0.5	N
Johnson, Dwight Johnson, Earvin	1	2	0.5	
Johnson, Emmett	1		0.5	Y
Johnson, James	1		0.5	
Johnson, Jarret	1		0.5	Y
	1		0.5	Y
Johnson, Jarrod Johnson, Jason	1		0.5	Y
· · · · · · · · · · · · · · · · · · ·	2	2		N N
Johnson, Jason	1	2	0.5	Y
Johnson, Joe				Υ
Johnson, Joe	1		0.5 0.5	Y
Johnson, Joe	1			
Johnson, Juan			0.5	
Johnson, Kenton	1		0.5	Υ
Johnson, Loren			0.5	
Johnson, Marty	1		0.5	Y
Johnson, Maurice	1	4		N
Johnson, Mike	1		0.5	
Johnson, Mike	2		1	Y
Johnson, Paris	1		0.5	Y
Johnson, Rashee	1		0.5	Y
Johnson, Riall	1	3	0.5	N
Johnson, Ricky	2		1	Y
Johnson, Steve	1	2	0.5	Y
Johnson, Teyo	1	3		
Johnson, Tommy	1	1	0.5	
Johnson, Tyrone	1	1		
Johnson, Undra	1	1		
Johnson, Wayne	1		0.5	
Jolly, Terry	1		0.5	
Jones, Adrian	2		1	
Jones, C.J.	2		1	
Jones, Carlos	1		0.5	
Jones, Chris	1		0.5	Y
Jones, Daniel	1		0.5	
Jones, David	2	1	1	
Jones, David	1		0.5	
Jones, Dewaine	2		1	Υ

CaSes#822012nd-(D0031)ment: 0031/10331/65920-2 Pāġed 26011/1Date āġed: 708/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Jones, Dwuane	1	IVI L Seasons	0.5	Y
Jones, Eric	1		0.5	Y
Jones, Ernest	1		0.5	
Jones, Ernie	1	6	0.5	N
Jones, J.J.	1	1	0.5	
Jones, Jim	1	_	0.5	Y
Jones, John	1		0.5	
Jones, Khari	1		0.5	Y
Jones, Larry	2		1	Y
Jones, Lee	1		0.5	Y
Jones, Maurice	1		0.5	Y
Jones, Myron	1		0.5	Y
Jones, Ontei	1		0.5	
Jones, Preston	2		1	Υ
Jones, Quintin	2	2	1	
Jones, Reggie	1	3	0.5	N
Jones, Richard	1	1	0.5	N
Jones, Shannon	2		1	Υ
Jones, Thomas	2		1	Υ
Jones, Tim	1		0.5	Υ
Jones, Todd	1	1	0.5	N
Jones, Tony	2	4	1	N
Jones, Tony	2		1	Υ
Jones, Tyler	1		0.5	Υ
Jones, Tyrone	1	1	0.5	N
Jonsson, Michael	3		1.5	Υ
Jordan, Brian	1		0.5	Υ
Jordan, Sean	1		0.5	Υ
Joseph, Carlos	1		0.5	Υ
Joseph, Dale	1		0.5	Υ
Joseph, Kerry	1	4	0.5	N
Joseph, Vance	1	2	0.5	N
Jowers, Jason	1		0.5	Υ
Joyce, Eric	1	1	0.5	N
Juhnke, Hans	1		0.5	Υ
Jurineack, Terrell	2		1	Υ
Kaaiohelo, Jared	2		1	
Kacmarynski, Marc	2		1	
Kahui, Kurt	1		0.5	
Kaleita, Tom	1		0.5	Υ

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			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Kalich, Ryan	2		1	Y
Kalombo, Kubanai	1		0.5	Y
Kancel, Patrice	4		2	Y
Kane, Morgan	1		0.5	Y
Karg, Terry	2		0.5	Y
Kashama, Alain	1	2	0.5	N
Kasowski, Steve	1		0.5	Y
Kaufusi, Doug	2		1	Y
Kaufusi, Steve	1	2		
Kauric, Jerry	1	1	0.5	N
Kawaguchi, Masafumi	7	_	3.5	Y
Kazadi, Muadianvita	1	1	0.5	N
Kazar, Jason	1	_	0.5	Y
Kearney, Jay	1		0.5	Y
Keen, Robbie	1		0.5	
Keen, Warren	1		0.5	Y
Keenan, Sean	1	1	0.5	
Keeney, Brad	3	1	1.5	N
Kehl, Ed	1	_	0.5	
Keith, Dustin	2		1	Y
Kelchner, Jake	1		0.5	Y
Kelley, Matt	1		0.5	Y
Kelley, Mike	1	2	0.5	N
Kellogg, Jack	2	_	1	Y
Kelly, Andy	2		1	
Kelly, Jermale	1		0.5	Y
Kelson, Derrick	1		0.5	
Kempchen, Andreas	1		0.5	
Kendrick, Donta	2		1	Y
Kennedy, Larry	1		0.5	
Kenney, Marchant	1		0.5	
Kern, Kenny	1		0.5	
Kerr, Mike	2		1	Y
Keys, Isaac	1	2	0.5	
Khayat, Bill	1		0.5	
Kibble, Jimmy	1		0.5	
Kidd, James	2		1	
Kight, Danny	2	3	1	N
Kight, Kelvin	1			
Kilian, James	1		0.5	
			0.5	

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			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Killeen, Ryan	Lurope Seasons 1		0.5	
Killings, Cedric	1		0.5	N
Killion, Kyle	1		0.5	Y
Kimball, David	1		0.5	Y
Kimrin, Ola	3			
Kincade, Keylon	1		0.5	N
King, Andy	1			
King, Buddy	1		0.5	Y
King, Emanuel	1	5	0.5	N
King, Eric	1		0.5	Y
King, Jerome	1		0.5	Y
King, Kenny	1		0.5	N
King, Michael	1		0.5	Y
King, Thomas	2		0.5	Y
King, Tyler	2		1	Y
Kingsbury, Kliff	1		0.5	N
Kingsbury, Kiin Kinoshita, Noriaki	3		1.5	
Kipps, Kyle	1		0.5	Y
Kirkpatrick, Kirk	1		0.5	Y
Kirksey, Jon	5	1	2.5	N
Kirksey, William	1			N
Kiselak, Mike	2		0.5	N
Kittner, Kurt	1			N
Klabo, Chuck	1	T	0.5	Y
Kleinhesselink, Riley	1		0.5	Y
Kleinmann, Ralf	8		4	Y
Klemic, Dave	1		0.5	
Kloeth, Barry	2		1	Y
Knight, Shawn	1			
Knox, Kevin	1		0.5	
Kobdish, Josh	1		0.5	
Kobel, Craig	1		0.5	
Konner, Daniel	1		0.5	
Koonce, Richard	1		0.5	
Kostrewa, Jeff	1		0.5	
Koulen, Rick	2		0.5	Y
Krager, Dane	1		0.5	
Krein, Darren	1		0.5	
Kresser, Eric	1			
Kroeker, Dustin	1		0.5	

CaSes#822012nd-(D0020m/ent: D0031/10331/65920-2 Pāġed 26311/1Date #ijed: 708/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Addad Eligible	
	Number of NFL	Number of	Added Eligible Seasons (excluding	Played Only
Player Kronenberg, Bob	Europe Seasons		seasons beyond 5)	NFL Europe?
Kronenberg, Bob Krumm, Todd	3	1	1.5 0.5	N N
•	5	1	2.5	Y
Kruse, Axel Kubiak, Jim	2		2.5	Y
Kubik, Brad	1		0.5	Y
Kuci, Kim	4		0.5	Y
Kugler, Sean	1		0.5	Y
Kuhn, Dominique	1		0.5	Y
Kuini, Donningue Kuipers, Jason	1		0.5	Y
Kula, Bob	2		0.5	Y
Kupp, Craig	1	1	0.5	N
Kurpeikis, Justin	1	3	0.5	N
Kushner, Bill	1	3	0.5	Y
Kwaku, Edward	1		0.5	Y
Kwarta, Bret	1		0.5	Y
Lacey, Chonn	2		1	Y
Ladd, Anthony	1	1	0.5	N
LaFleur, Billy	1	2	0.5	N
Lafont, Xavier	1	2	0.5	Y
Lamb, Marc	2		0.5	Y
Lambert, Dion	1	3	0.5	N
Lammle, Wayne	1	3	0.5	Y
Lancaster, Sasha	2		1	Y
Lance, Carlton	1		0.5	Y
Landrom, Jamar	1		0.5	Y
Landrum, Vincent	1		0.5	Y
Landry, Michael	1		0.5	Y
Lane, Greg	1		0.5	Y
Lang, Olaf	1		0.5	Y
Langley, Aron	1		0.5	Y
Lano, Bastian	5		2.5	
LaRocca, Josh	2		1	Y
Larsen, Atle	1		0.5	Y
Larsen, Stephen	1		0.5	Y
LaSane, Bruce	1		0.5	
Laskowski, Chris	1		0.5	Y
Latka, Martin	4		2	Y
Laufenberg, Babe	1	4	0.5	N
Lay, Josh	1		0.5	
Layfield, John	1		0.5	

			Added Elicible	
	No. of No. of No.	N	Added Eligible	
		Number of		Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Layow, Matt	1		0.5	
Leahy, Ryan	2		1	Y
Leatherwood, Frank	1		0.5	Y
LeBlanc, Clarence	2	1	1	N
Lebo, Brad	1		0.5	
Ledbetter, Mark	2		1	Y
Ledyard, Courtney	1	1		
Lee, Alvin	1		0.5	Υ
Lee, Darrell	2		1	Y
Lee, Greg	1		0.5	Y
Lee, Greg	2	1		N
Lee, James	1	1	0.5	N
Lee, Kevin	1	2	0.5	
Lee, Mark	1		0.5	Y
Lee, Reginald	1		0.5	
Lee, Rob	1		0.5	Y
Lee, Steve	1		0.5	
Lefotu, Kili	1		0.5	Υ
Leggett, Jerry	1		0.5	Y
Lenda, Tyler	3		1.5	Υ
Lenseigne, Tony	1		0.5	
Lester, Marc	1		0.5	Y
Levake, Derrick	2		1	Υ
Levey, Jabari	1		0.5	Υ
Levy, Darcey	1		0.5	Υ
Lewis, Chris	1		0.5	Υ
Lewis, Darrell	1		0.5	Υ
Lewis, Derrick	1	3	0.5	N
Lewis, Jacque	2		1	Υ
Lewis, James	2		1	Υ
Lewis, Jermaine	1		0.5	Υ
Lewis, Jonas	1	2	0.5	N
Lewis, Kevin	1		0.5	Υ
Lewis, Kip	2		1	Υ
Lewis, Ron	2	1	1	N
Lewis, Scotty	1		0.5	Υ
Li, Chaoran	1		0.5	Υ
Lies, Michael	1		0.5	Υ
Liess, Christopher	3		1.5	Υ
Lightner, Kevin	1		0.5	Υ

CaSes#822012nd-(D0021ment: 00021113321165920-2 Pāġed 26511/1Date āġed: 708/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Ligon, Lemual	1	IVI E SCUSOIIS	0.5	Y
Lillibridge, Marc	1		0.5	Y
Lilljedahl, Bobby	2		1	Y
Lindholm, Matti	1		0.5	Y
Lindstrom, Eric	3		1.5	Y
Lindstrom, Gabe	2		1	Y
Lira, Hugo	3		1.5	Y
Little, Derrick	1		0.5	Υ
Little, George	2	3		N
Lloyd, DeAngelo	2		1	Υ
Lockett, Charles	1	2	0.5	N
Lockett, Danny	2	2	1	N
Lockhart, Radell	3		1.5	Υ
Lofton, Billy	1		0.5	Υ
Logan, Phil	1		0.5	Υ
Loggins, Jarett	2		1	Υ
Long, Devan	1		0.5	Υ
Long, Ding	1		0.5	Υ
Long, Juan	3		1.5	Υ
Lopez, Gerardo	1		0.5	Υ
Lopez, Mauricio	3		1.5	Υ
Lord, Junior	1		0.5	Υ
Loredo, Cesar	2		1	Υ
Lossow, Rodney	2		1	Υ
Lott, James	1		0.5	Υ
Louisdor, Mesene	1		0.5	Υ
Love, Clarence	1	4	0.5	N
Love, Marvin	1		0.5	Υ
Lowe, Reggie	1	1	0.5	N
Lowery, Bren	1		0.5	Υ
Lowery, Michael	1	2	0.5	N
Lucas, Chad	1	2	0.5	N
Lukins, Tony	2		1	Υ
Lulay, Travis	1		0.5	Υ
Lumelski, Zev	1		0.5	Υ
Lundqvist, Patrik	1		0.5	Υ
Luneberg, Chris	3		1.5	
Luoto, liro	3		1.5	Υ
Lyck, Kai-Erik	1		0.5	
Lyle, Win	1		0.5	Υ

CaSes#8220142nd-(D00143m/ent: D003141333165920-2 Pāġed 26611/1Date #ijed: 708/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Added Eligible Seasons (excluding	Played Only
Diavas			seasons (excluding seasons beyond 5)	NFL Europe?
Player Lynch, Ben	Europe Seasons			
•	1			N N
Lynch, Eric	1			
Lynch, Shawn	1		0.5	N Y
Lytle, Dean	1		0.5	
Mahara Mika				Ϋ́Υ
Mabry, Mike	2		1 0.5	
Macik, Miles				
Mack, Gerald	1 2		0.5	Υ Υ
Mack, Kendell			1	
Mack, Rico	2		1	N
MacKenzie, Tony	2		1	Y
Maddox, Andre	1		0.5	Y
Maggio, Kirk	2		1	Y
Mahdavi, Ben	1		0.5	Y
Majondo-Mwamba, Patrice	3		1.5	
Makinen, Markku	1		0.5	Υ
Malan, Mike	2		1	Υ
Malano, Mike	1		0.5	Y
Malbrough, Anthony	1			N
Malecki, Jason	1		0.5	Y
Mallard, DeShone	2		1	Υ
Mallard, Josh	1		0.5	N
Malm, Cristian	3		1.5	Y
Malo, Gregoire	3		1.5	Y
Malone, Antonio	1		0.5	Y
Malone, Art	1		0.5	Y
Malone, Toderick	2		1	Y
Malone, Tom	1		0.5	Υ
Malveaux, Kelly	1		0.5	Y
Manca, Massimo	1	1	0.5	N
Mance, Brian	1		0.5	Y
Mandley, Pete	1	7	0	N
Manning, Roderick	1		0.5	Y
Manns, Denvis	2		1	Υ
Manuel, Lionel	1	7	0	N
Manuel, Sam	1		0.5	Υ
Manuel, Sean	1	1	0.5	N
Maranto, Tony	2		1	Y
Marceline, Laurent	4		2	Y
Marcos, Xisco	3		1.5	Υ

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 26711/10/ate āġed: 708/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Dlavar	Europe Seasons		seasons beyond 5)	NFL Europe?
Player Marlatt, Pat	2		1	Y
Marrone, Doug	2	2	1	N
Marrow, Vince	2	1		N
Marshall, Keyonta	1	1	0.5	N
Martin, Demetrice	1		0.5	
Martin, Emerson	2	1	1	N
Martin, Jamie	1	10	0	N
Martin, Jason	1	10	0.5	Y
Martin, Jimmy	1		0.5	Y
Martin, Ruvell	1	7	0.9	N
Martin, Tee	1	3		N
Martin, Tim	1	3	0.5	Y
Martinez, Arturo	1		0.5	Y
Martini, Ralph	1		0.5	Y
Martos, Diego	2		1	Y
Martos, Marco	8		4	Y
Martz, Daniel	1		0.5	Y
Maslo, Stephan	1		0.5	Y
Mason, Michael	2		1	Y
Massey, Sam	1		0.5	Y
Massey, Tony	1		0.5	Y
Massimiani, John	1		0.5	Y
Mastrole, Ken	1		0.5	Υ
Mathes, Andre	2		1	Y
Matla, Pascal	1		0.5	Y
Matthews, Adam	1		0.5	Υ
Matthews, Roshaun	1		0.5	Υ
Matthews, Steve	1	2	0.5	N
Matusz, Roman	1		0.5	Υ
May, Chad	1	1	0.5	N
Maye, Mark	1		0.5	Υ
Mayer, Shawn	3	2	1.5	N
Mayers, Lorn	2		1	Y
Mayfield, Corey	1	2	0.5	N
Mayfield, Curtis	1		0.5	Υ
Mayo, Lyneil	1		0.5	Υ
Mays, Jermaine	2		1	Υ
McAda, Ronnie	1		0.5	Υ
McAllister, Bobby	2		1	Υ
McAlmont, Kevin	1		0.5	Υ

CaSes#8220142nd-020123m/ent: 0031/1331/65920-2 Pāġed 26811/1Date āġed: 708/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Flicible	
	at the confidence	Nl f	Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
McArthur, Kevin	1	4		
McBrien, Scott	1		0.5	Υ
McCall, Kris	1		0.5	Y
McCall, Matt	1		0.5	Υ
McCallum, Paul	1		0.5	
McCann, Kyle	1		0.5	Υ
McCarthy, Mike	1		0.5	
McChesney, Matt	1	2	0.5	N
McClanahan, Anthony	1		0.5	Υ
McCleary, Norris	1	2	0.5	N
McClellion, Central	1			
McCorvey, Kez	1	3	0.5	N
McCoy, Derek	1		0.5	Υ
McCoy, Ivory	3		1.5	Υ
McCoy, Keith	1		0.5	
McCoy, Mike	2		1	Υ
McCoy, Ryan	1		0.5	Υ
McCray, Antwon	1		0.5	Υ
McCready, Scott	6		3	Υ
McCree, Charles	1		0.5	Υ
McCullar, Kevin	1		0.5	Υ
McCullough, Andy	1	1	0.5	N
McCullough, Carl	1		0.5	Υ
McCullough, Edorian	1		0.5	Υ
McCullough, Jake	1	2	0.5	N
McCullough, Russ	2		1	Υ
McCullum, Justin	1		0.5	Υ
McDaniel, Curtis	1		0.5	Υ
McDaniel, Kenneth	1		0.5	Υ
McDaniels, Pellom	2	7	0	N
McDaniels, Terry	1		0.5	Υ
McDonald, Brian	2		1	Υ
McDonald, LaMarcus	1		0.5	Υ
McDonald, Sameeh	1		0.5	
McDougal, Kevin	1		0.5	
McElmurry, Blaine	2	3	1	N
McElroy, Jim	1		0.5	
McEndoo, Jason	1	1	0.5	
McEntyre, Kenny	4		2	
McEwen, Craig	1			

CaSes#822012nd-(D0031)ment: 0031/10331/65920-2 Pāġed 26911/1Date āġed: 708/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
McFarland, Dylan	1	NFL Seasons	0.5	NFL Ediope:
McGann, Mike	1	2	0.5	Y
McGaughey, Thomas	1		0.5	Y
McGee, Curtis	2		0.5	Y
McGee, Dell	1	1	0.5	
McGee, Don	1		0.5	Y
McGeoghan, Phil	1	1	0.5	N
McGhghy, Matt	1	_	0.5	Y
McGill, Curt	1		0.5	
McGill, Darryl	1		0.5	Y
McGill, Karmeeleyah	2	1	1	N
McGowan, Paul	2	_	1	Y
McGrew, Brock	1		0.5	Y
McGrew, Sam	1		0.5	Y
McGruder, Lynn	1		0.5	
McGuire, Kaipo	1	2	0.5	N
McGuirk, Pat	2		1	Υ
McIntyre, Corey	2	8	0	N
McIntyre, Jeris	1		0.5	Υ
McKenzie, Damonte	2		1	Υ
McKenzie, Kevin	1	1	0.5	N
McKibben, Josh	1		0.5	Υ
McKinney, Anthony	1		0.5	Υ
McLemore, Chris	1	2	0.5	N
McLeod, Kevin	1	2	0.5	N
McMahon, Pete	1		0.5	Υ
McManus, Curtis	1		0.5	Υ
McMeans, Tyler	1		0.5	Υ
McMullen, Kirk	1	1	0.5	N
McNair, Fred	1		0.5	Υ
McNeil, Nick	1		0.5	Υ
McNutt, Antoine	1		0.5	Υ
McPhatter, Brian	1		0.5	Υ
McSeed, Larry	1		0.5	Υ
McWashington, Shawn	1		0.5	Υ
McWilliams, Jason	1		0.5	Υ
McWright, Robert	2		1	Υ
Meeks, Bob	1	1	0.5	N
Meerten, Joe	1		0.5	Υ
Meeuwsen, Mitch	1		0.5	Υ

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 27/011/10/ate āġed: 808/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Megna, Marc	1			
Meijer, Niels	3		1.5	Y
Meine, Ole	2		1.5	Y
Mendenhall, Mike	1		0.5	Y
Mensah, Akwasi	2		0.5	Y
Merandi, John	1		0.5	Y
Mercer, Ivan	1		0.5	
Meredith, Dion	1		0.5	Y
Merrill, Than	2	1		N
Merritt, David	1	3	0.5	N
Messmer, Frank	3	3	1.5	
Metcalf, Terrance	1		0.5	Y
Meyer, Erik	1		0.5	Y
Michals, Jon	1		0.5	Y
Mickel, Jeff	2	1		N
Mickey, Joey	1	1	0.5	N
Mickles, Joe	2	2		N
Middleton, Brandon	1	2	0.5	N
Middleton, Mike	2	_	1	Y
Mikolas, Doug	2	2	1	N
Milanovich, Scott	1	1		
Miles, Barron	1	_	0.5	Y
Miles, Jermaine	1		0.5	Y
Miller, Ben	1		0.5	Y
Miller, Brandon	1	1	0.5	N
Miller, Bronzell	1	1	0.5	N
Miller, Brook	1		0.5	
Miller, Chris	1		0.5	
Miller, Craig	1	1		
Miller, David	1		0.5	
Miller, Doug	1		0.5	
Miller, Jeff	1		0.5	
Miller, John	2	2		
Miller, Keith	1	2	0.5	
Miller, Kevin	1		0.5	
Miller, Marquet	1		0.5	
Miller, Matt	1		0.5	
Miller, Norman	1		0.5	
Miller, Romaro	1	1		
Miller, Scott	1		0.5	

CaSes#8220142nd-020123m/ent: 003111332165920-2 Pāġed 2771/11/11/12/ate/āġed:808/09/2019 Eligible Seasons Added by Credit for NFL Europe

Number of NFL Europe Seasons Number of NFL Europe Seasons Next Number of NFL Num				Added Eligible	
Player Europe Seasons NFL Seasons Seasons beyond 5 NFL Europe?		Newsbon of NEI	Neurobou of	Added Eligible	Dlaved Oak
Miller-Lopez, Jason 2 1 Y Mills, Javor 1 1 0.5 N Mills, Lamar 1 1 0.5 N Mills, Toby 2 1 Y Mils, Toby 2 1 Y Mils, Toby 1 0.5 Y Mils, Toby 1 0.5 Y Miler, Brandon 1 1 0.5 N Mire, Brandon 1 1 0.5 N Missant, Charles 2 1 1 Y Missouri, Dwayne 1 1 0.5 N Mitchell, Eric 1 0.5 N N Mitchell, Barry 1 0.5 Y Mittchell, Barry 1 0.5 Y Mitchell, Ben 1 0.5 Y Y Mitchell, Corey 1 0.5 Y Mitchell, Corey 1 0.5 Y Y Mitchell, Corey 1 0.5 Y Mitchell, Deor 1 1 0.5 Y <	Dlavar				
Mills, Javor 1 1 1 0.5 N Mills, Lamar 1 1 1 0.5 N Mills, Shawn 1 0.5 Y Mills, Toby 2 1 1 Y Minardi, John 1 0.5 N Missant, Charles 2 1 1 Y Missouri, Dwayne 1 1 1 0.5 N Mitchell, Eric 1 0.5 Y Mitchell, Barry 1 0.5 Y Mitchell, Ben 1 0.5 Y Mitchell, Corey 1 0.5 Y Mitchell, Corey 1 0.5 Y Mitchell, Derrell 1 1 0.5 N Mitchell, Hardy 1 0.5 Y Mitchell, Hardy 1 0.5 Y Mitchell, Hardy 1 0.5 N Mitchell, Shon 1 0.5 Y Mitchell, Shon 1 0.5 Y Mitchell, Shry 1 0.5 N Mitchell, Shry 1 0.5 N Mitchell, Agaim 1 0.5 N Mitchell, Shry 1 0.5 N More, Kerry 1 0.5 N More, Kerry 1 0.5 N More, Christian 1 0.5 N More, Chazz 1 0.5 N Moore, Chazz 1 0.5 N Moore, Curtis 1 0.5 Y	<u> </u>	· ·			-
Mills, Shawn 1 0.5 N Mills, Shawn 1 0.5 Y Mills, Toby 2 1 Y Minardi, John 1 0.5 Y Miree, Brandon 1 1 0.5 N Missouri, Dwayne 1 1 0.5 N Missouri, Dwayne 1 1 0.5 N Mitchell, Eric 1 0.5 Y Mitchell, Barry 1 0.5 Y Mitchell, Ben 1 0.5 Y Mitchell, Ben 1 0.5 Y Mitchell, Corey 1 0.5 Y Mitchell, Corey 1 0.5 Y Mitchell, Deon 1 0.5 Y Mitchell, Derrell 1 1 0.5 Y Mitchell, Lonny 1 0.5 N Mitchell, Lonny 1 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mittchell, Shirdonya 1 0.5 N					
Mills, Shawn 1 0.5 Y Mills, Toby 2 1 Y Minardi, John 1 0.5 N Miree, Brandon 1 1 0.5 N Missant, Charles 2 1 Y Mitchell, Barr 1 0.5 N Mitchell, Barry 1 0.5 Y Mitchell, Bern 1 0.5 Y Mitchell, Corey 1 0.5 Y Mitchell, Corey 1 0.5 Y Mitchell, Derrell 1 1 0.5 Y Mitchell, Derrell 1 1 0.5 Y Mitchell, Leonny 1 1 0.5 Y Mitchell, Shirdonya 1 1 0.5 N					
Mills, Toby 2 1 Y Minardi, John 1 0.5 Y Miree, Brandon 1 1 0.5 N Missant, Charles 2 1 1 Y Missant, Dwayne 1 1 0.5 N Mitchell, Eric 1 0.5 Y Mitchell, Barry 1 0.5 Y Mitchell, Barry 1 0.5 Y Mitchell, Clint 2 1 Y Mitchell, Corey 1 0.5 Y Mitchell, Corey 1 0.5 Y Mitchell, Deon 1 0.5 Y Mitchell, Derrell 1 1 0.5 N Mitchell, Lonny 1 0.5 Y Mitchell, Lonny 1 0.5 Y Mitchell, Casim 1 0.5 Y Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shon 1 0.5 Y Mittchell, Shon 1 0.5 Y			1		
Minardi, John 1 0.5 Y Miree, Brandon 1 1 0.5 N Missouri, Dwayne 1 1 0.5 N Mitchell, Eric 1 0.5 Y Mitchell, Barry 1 0.5 Y Mitchell, Ben 1 0.5 Y Mitchell, Corey 1 0.5 Y Mitchell, Corey 1 0.5 Y Mitchell, Deon 1 0.5 Y Mitchell, Deon 1 0.5 Y Mitchell, Deon 1 0.5 Y Mitchell, Corey 1 0.5 Y Mitchell, Deon 1 0.5 Y Mitchell, Corey 1 0.5 Y Mitchell, Grey 1 0.5 Y Mitchell, Good 1 0.5 N Mitchell, Grey 1 0.5 N Mitchell, Qasim 1 0.5 N <td< td=""><td>•</td><td></td><td></td><td></td><td></td></td<>	•				
Miree, Brandon 1 1 0.5 N Missant, Charles 2 1 Y Missouri, Dwayne 1 1 0.5 N Mitchell, Eric 1 0.5 Y Mitchell, Barry 1 0.5 Y Mitchell, Ben 1 0.5 Y Mitchell, Clint 2 1 Y Mitchell, Corey 1 0.5 Y Mitchell, Corey 1 0.5 Y Mitchell, Derrell 1 0.5 Y Mitchell, Derrell 1 0.5 N Mitchell, Hardy 1 0.5 N Mitchell, Lardy 1 0.5 Y Mitchell, Lardy 1 0.5 N Mitchell, Lardy 1 0.5 N Mitchell, Shirdonya 1 0.5 N Mitchell, Shirdonya 1 0.5 N Mitchell, Shirdonya 1 0.5 N <td></td> <td></td> <td></td> <td></td> <td></td>					
Missant, Charles 2 1 Y Missouri, Dwayne 1 1 0.5 N Mitchell, Eric 1 0.5 Y Mitchell, Barry 1 0.5 Y Mitchell, Ben 1 0.5 Y Mitchell, Clint 2 1 Y Mitchell, Corey 1 0.5 Y Mitchell, Deon 1 0.5 Y Mitchell, Deon 1 0.5 Y Mitchell, Bardy 1 0.5 Y Mitchell, Bardy 1 0.5 Y Mitchell, Hardy 1 0.5 Y Mitchell, Conny 1 0.5 Y Mitchell, Lonny 1 0.5 Y Mitchell, Gasim 1 0.5 Y Mitchell, Shordonya 1 1 0.5 N Mitthell, Shirdonya 1 1 0.5 N Mitthell, Shordonya 1 1 0.5 N Mitthell, Shordonya 1 0.5 N	· · · · · · · · · · · · · · · · · · ·		1		
Missouri, Dwayne 1 1 0.5 N Mitchell, Eric 1 0.5 Y Mitchell, Barry 1 0.5 Y Mitchell, Ben 1 0.5 Y Mitchell, Clint 2 1 Y Mitchell, Corey 1 0.5 Y Mitchell, Deon 1 0.5 Y Mitchell, Derrell 1 1 0.5 N Mitchell, Hardy 1 0.5 Y Mitchell, Lonny 1 0.5 Y Mitchell, Qasim 1 3 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mitthell, Shirdonya 1 1 0.5 N<			1		
Mitchel, Eric 1 0.5 Y Mitchell, Barry 1 0.5 Y Mitchell, Ben 1 0.5 Y Mitchell, Clint 2 1 Y Mitchell, Corey 1 0.5 Y Mitchell, Deon 1 0.5 Y Mitchell, Derrell 1 1 0.5 N Mitchell, Hardy 1 0.5 Y Mitchell, Lonny 1 0.5 Y Mitchell, Coasim 1 3 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shon 1 0.5 N Mitchell, Shon 1 0.5 N Mittendorf, Alexei 1 0.5 Y Mittendorf, Alexei 1 0.5 Y Mittendorf, Alexei 1 0.5 Y Moa, Ben 2 1 Y Mook, Kerry 1 2 0.5 N Mock, Kerry 1 0.5 Y			1		
Mitchell, Barry 1 0.5 Y Mitchell, Ben 1 0.5 Y Mitchell, Clint 2 1 Y Mitchell, Corey 1 0.5 Y Mitchell, Deon 1 0.5 Y Mitchell, Derrell 1 1 0.5 N Mitchell, Hardy 1 0.5 Y Mitchell, Lonny 1 0.5 Y Mitchell, Lonny 1 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shon 1 0.5 N N Mittendorf, Alexej 1 0.5 N Mittendorf, Alexej 1 0.5 Y Mitzuguchi, Takao 1 0.5 Y Moa, Ben 2 1 Y Mook, Kerry 1 0.5 N Mock, Kerry 1 0.5 Y Mohr, Christian 4 2 Y <	•		1		
Mitchell, Ben 1 0.5 Y Mitchell, Clint 2 1 Y Mitchell, Corey 1 0.5 Y Mitchell, Deor 1 0.5 Y Mitchell, Derrell 1 1 0.5 N Mitchell, Derrell 1 1 0.5 N Mitchell, Bridonya 1 0.5 Y Mitchell, Lonny 1 0.5 N Mitchell, Shirdonya 1 1 0.5 N	·				
Mitchell, Clint 2 1 Y Mitchell, Corey 1 0.5 Y Mitchell, Deon 1 0.5 Y Mitchell, Derrell 1 1 0.5 N Mitchell, Hardy 1 0.5 Y Mitchell, Lonny 1 0.5 Y Mitchell, Qasim 1 3 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shon 1 0.5 Y Mitchell, Shon 1 0.5 Y Mitrione, Matt 1 1 0.5 N Mittendorf, Alexej 1 0.5 Y Mizuguchi, Takao 1 0.5 Y Moole, Ben 2 1 Y Mook, Kerry 1 2 0.5 N Mock, Kerry 1 0.5 Y Moe, Tanuvasa 1 0.5 Y Mohr, Christian 4 2 Y Monty, Leo 2 1 Y					
Mitchell, Corey 1 0.5 Y Mitchell, Deon 1 0.5 Y Mitchell, Derrell 1 1 0.5 N Mitchell, Derrell 1 1 0.5 N Mitchell, Hardy 1 0.5 Y Mitchell, Lonny 1 0.5 Y Mitchell, Cosim 1 3 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shon 1 0.5 Y Mitchell, Shon 1 0.5 Y Mitchell, Shon 1 0.5 N Moltzell, Shon 1 0.5 N	•				
Mitchell, Deon 1 0.5 Y Mitchell, Derrell 1 1 0.5 N Mitchell, Hardy 1 0.5 Y Mitchell, Lonny 1 0.5 Y Mitchell, Qasim 1 3 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shon 1 0.5 Y Mitrione, Matt 1 1 0.5 Y Mitrione, Matt 1 1 0.5 N Mittendorf, Alexej 1 0.5 Y Mittendorf, Alexej 1 0.5 Y Moa, Ben 2 1 Y Moa, Ben 2 1 Y Mook, Kerry 1 2 0.5 N Moe, Tanuvasa 1 0.5 Y Mohr, Christian 4 2 Y Molly, Leo 2 1 Y Montgomery, Justin 1 0.5 N Montgomery, Shane 1 0.5 Y <	·				
Mitchell, Derrell 1 1 0.5 N Mitchell, Hardy 1 0.5 Y Mitchell, Lonny 1 0.5 Y Mitchell, Qasim 1 3 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shon 1 0.5 Y Mitchell, Shon 1 0.5 N Mitchell, Shor 1 0.5 Y Mitchell, Shor 1 0.5 Y Molz, Hard 1 0.5 N Most Research 1 0.5 N More, Christan	•				
Mitchell, Hardy 1 0.5 Y Mitchell, Lonny 1 0.5 Y Mitchell, Qasim 1 3 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shon 1 0.5 Y Mitrione, Matt 1 1 0.5 N Mittendorf, Alexej 1 0.5 Y Moa, Ben 2 1 Y Mobley, Stacey 1 2 0.5 N Mock, Kerry 1 2 0.5 N Mock, Kerry 1 0.5 Y Molr, Christian 4 2 Y Molly, Leo 2 1 Y </td <td></td> <td></td> <td></td> <td></td> <td></td>					
Mitchell, Lonny 1 0.5 Y Mitchell, Qasim 1 3 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shon 1 0.5 Y Mitrione, Matt 1 1 0.5 Y Mittendorf, Alexej 1 0.5 Y Mizuguchi, Takao 1 0.5 Y Moa, Ben 2 1 Y Mobley, Stacey 1 2 0.5 N Mock, Kerry 1 2 0.5 Y Moe, Tanuvasa 1 0.5 Y Mohr, Christian 4 2 Y Molly, Leo 2 1 Y Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moore, Andrew 1 0.5 Y <td>•</td> <td></td> <td>1</td> <td></td> <td></td>	•		1		
Mitchell, Qasim 1 3 0.5 N Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shon 1 0.5 Y Mitrione, Matt 1 1 0.5 N Mittendorf, Alexej 1 0.5 Y Mizuguchi, Takao 1 0.5 Y Moa, Ben 2 1 Y Mobley, Stacey 1 2 0.5 N Mock, Kerry 1 0.5 Y Moe, Tanuvasa 1 0.5 Y Mohr, Christian 4 2 Y Molly, Leo 2 1 Y Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Mondgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y <td< td=""><td>•</td><td>1</td><td></td><td>0.5</td><td></td></td<>	•	1		0.5	
Mitchell, Shirdonya 1 1 0.5 N Mitchell, Shon 1 0.5 Y Mitrione, Matt 1 1 0.5 N Mittendorf, Alexej 1 0.5 Y Mizuguchi, Takao 1 0.5 Y Moa, Ben 2 1 Y Mobley, Stacey 1 2 0.5 N Mock, Kerry 1 0.5 Y Moe, Tanuvasa 1 0.5 Y Mohr, Christian 4 2 Y Molly, Leo 2 1 Y Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Mitchell, Lonny			0.5	
Mitchell, Shon 1 0.5 Y Mitrione, Matt 1 1 0.5 N Mittendorf, Alexej 1 0.5 Y Mizuguchi, Takao 1 0.5 Y Moa, Ben 2 1 Y Mobley, Stacey 1 2 0.5 N Mock, Kerry 1 0.5 Y Moe, Tanuvasa 1 0.5 Y Mohr, Christian 4 2 Y Molly, Leo 2 1 Y Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Mitchell, Qasim	1	3		
Mitrione, Matt 1 1 0.5 N Mittendorf, Alexej 1 0.5 Y Mizuguchi, Takao 1 0.5 Y Moa, Ben 2 1 Y Mobley, Stacey 1 2 0.5 N Mock, Kerry 1 0.5 Y Moe, Tanuvasa 1 0.5 Y Mohr, Christian 4 2 Y Molly, Leo 2 1 Y Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Mitchell, Shirdonya	1	1	0.5	N
Mittendorf, Alexej 1 0.5 Y Mizuguchi, Takao 1 0.5 Y Moa, Ben 2 1 Y Mobley, Stacey 1 2 0.5 N Mock, Kerry 1 0.5 Y Moe, Tanuvasa 1 0.5 Y Mohr, Christian 4 2 Y Molly, Leo 2 1 Y Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Mitchell, Shon	1		0.5	Υ
Mizuguchi, Takao 1 0.5 Y Moa, Ben 2 1 Y Mobley, Stacey 1 2 0.5 N Mock, Kerry 1 0.5 Y Moe, Tanuvasa 1 0.5 Y Mohr, Christian 4 2 Y Molly, Leo 2 1 Y Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Mitrione, Matt	1	1	0.5	N
Moa, Ben 2 1 Y Mobley, Stacey 1 2 0.5 N Mock, Kerry 1 0.5 Y Moe, Tanuvasa 1 0.5 Y Mohr, Christian 4 2 Y Molly, Leo 2 1 Y Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Mittendorf, Alexej	1		0.5	Υ
Mobley, Stacey 1 2 0.5 N Mock, Kerry 1 0.5 Y Moe, Tanuvasa 1 0.5 Y Mohr, Christian 4 2 Y Molly, Leo 2 1 Y Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Mizuguchi, Takao	1		0.5	Υ
Mock, Kerry 1 0.5 Y Moe, Tanuvasa 1 0.5 Y Mohr, Christian 4 2 Y Molly, Leo 2 1 Y Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Moa, Ben	2		1	Υ
Moe, Tanuvasa 1 0.5 Y Mohr, Christian 4 2 Y Molly, Leo 2 1 Y Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Mobley, Stacey	1	2	0.5	N
Mohr, Christian 4 2 Y Molly, Leo 2 1 Y Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Mock, Kerry	1		0.5	Υ
Molly, Leo 2 1 Y Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Moe, Tanuvasa	1		0.5	Υ
Monds, Mario 1 2 0.5 N Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Mohr, Christian	4		2	Υ
Monroe, Derrius 1 0.5 Y Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Molly, Leo	2		1	Υ
Montgomery, Justin 1 0.5 Y Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Monds, Mario	1	2	0.5	N
Montgomery, Shane 1 0.5 Y Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Monroe, Derrius	1		0.5	Υ
Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Montgomery, Justin	1		0.5	Υ
Moody, Mike 3 1.5 Y Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	Montgomery, Shane	1		0.5	Υ
Moody, Thomas 1 0.5 Y Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y		3			
Moore, Andrew 1 0.5 Y Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y					
Moore, Chazz 1 0.5 Y Moore, Curtis 1 0.5 Y	• 1				
Moore, Curtis 1 0.5 Y					
	Moore, Darryl	1			

CaSes#8220142nd-02013311689120-2 Paged 27/211/1Date adject: 808/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Added Eligible Seasons (excluding	Dlayed Only
Diaver				Played Only NFL Europe?
Player Moore Freddie	Europe Seasons 2		seasons beyond 5) 1	Y
Moore, Freddie Moore, Josh	1		0.5	Y
Moore, Keon	1		0.5	Y
Moore, Mark	2	1	0.5	N
Moore, Otis	2	1	1	Y
Moore, Rod	1		0.5	Y
Moore, Tim	1		0.5	Y
Moorer, Pat	2		1	Y
Moran, Ron	1		0.5	Y
Moreau, Frank	1	2	0.5	N
Moreira, Tom	1	_	0.5	Y
Moreland, Earthwind	1	3	0.5	N
Moretti, Dave	1	3	0.5	Y
Morey, Sean	1	9	0.5	N
Morgan, Shawn	2		1	Y
Morgan, Tim	1		0.5	Y
Moronkola, Dee	1		0.5	Y
Morris, Alex	1		0.5	Y
Morris, Carl	2		1	Y
Morris, Cree	1		0.5	Y
Morris, Horace	2		1	Υ
Morris, Lee	2	1	1	N
Mortensen, Todd	1		0.5	Υ
Morton, Brian	1		0.5	Υ
Morton, Craig	1		0.5	Υ
Morton, John	1		0.5	Υ
Mose, Diriki	1		0.5	Υ
Mosley, Denorse	1		0.5	Υ
Moss, Brent	1	1	0.5	N
Moss, Eric	1		0.5	Υ
Moss, Tony	1		0.5	Υ
Moss, Tristan	3		1.5	Υ
Motzkus, Andreas	4		2	Υ
Mounts, Rod	1		0.5	Υ
Movassaghi, Babek	3		1.5	Υ
Moxley, Tim	1		0.5	Υ
Mraz, Mark	1	2	0.5	N
Mudge, David	1		0.5	Υ
Muhammad, Victor	6		3	Υ
Muirbrook, Shay	1		0.5	Y

CaSes#822012nd-000020m/ent: 00031/10331/65920-2 Pāġed 27/311/10 at etājed: 808/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Mulcahy, Sean	2		1	Y
Mull, Curt	2		1	Y
Mullin, R.C.	1		0.5	Y
Munch, John	1		0.5	Y
Munoz, Jose	2		0.5	Y
Muraoka, George	1		0.5	Y
Murphy, Chaz	1		0.5	
Murphy, Jason	1		0.5	Y
Murphy, Jim	1		0.5	
Murphy, Mark	1		0.5	Y
Murphy, Nick	1	2		
Murphy, Rob	1	3	0.5	N
Murphy, Yo	2	3		N
Murray, Cal	2	<u> </u>	1	Y
Murray, Dan	1	1		
Murray, Leon	1	_	0.5	Y
Musinski, Rich	2		1	Y
Mustafa, Isaiah	1		0.5	Y
Muther, Pete	1		0.5	
Mutryn, Scott	1		0.5	Y
Mutti, Paolo	1		0.5	
Myers, Ryan	1	2	0.5	
Myers, Shannon	1	_	0.5	Y
Myers, Wood	1		0.5	Y
Nagurski, Steffen	1		0.5	
Najarian, Pete	2	3	1	
Nakajima, Yu	2	3	1	Y
Nakamura, Tamon	2		1	Y
Namiki, Kentaro	2		1	
Naposki, Eric	4	2	2	N
Nash, Keyon	1	1		N
Nazel, Omar	2		1	Y
Nelson, Corey	1		0.5	Υ
Nelson, Reggie	2	2	1	N
Nerys, Jason	1		0.5	
Nettles, Mike	2		1	
Neunzig, Rene	1		0.5	
Nevadomsky, Jason	1		0.5	
Newberry, Jared	1		0.5	
Newbill, Richard	4			
,			_	

CaSes#8220142nd-02013311689120-2 Paged 277411/1Date adject: 808/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Newell, Mike	1	1	0.5	N
Newhouse, Reggie	1	2	0.5	N
Newman, Adam	1	_	0.5	Y
Newman, David	1		0.5	Y
Newsom, Tony	2	1	1	N
Newsome, Myron	2		1	Υ
Newsome, Richard	1	1	0.5	N
Newson, James	1		0.5	Υ
Newton, Brandon	2		1	Υ
Newton, Falanda	2		1	Υ
Newton, Levi	1		0.5	Υ
Ngaue, Alex	1		0.5	Υ
Nichols, Ben	1		0.5	Υ
Nichols, Gerald	1	6	0	N
Nichols, Jerome	1		0.5	Υ
Nicholson, Calvin	1	2	0.5	N
Nicks, Ronnie	1		0.5	Υ
Nicolson, Jeff	2		1	Υ
Nienhuis, Doug	1	1	0.5	N
Nies, John	2	1	1	N
Niklos, J.R.	3		1.5	Υ
Nimmo, Lance	1		0.5	Υ
Nittmo, Bjorn	2	1	1	N
Nivens, Damon	2		1	Υ
Nnabuife, Alvin	1		0.5	Υ
Noa, Kaulana	1		0.5	Υ
Noble, Brandon	1	6	0	N
Noble, Derek	1		0.5	Υ
Noel, Kevin	1		0.5	Υ
Noel, Tori	1		0.5	Υ
Nord, Kendrick	1		0.5	Υ
Norman, Dempsey	2		1	Υ
Norseth, Mike	1	1	0.5	N
North, Ramondo	1	_	0.5	Υ
Novak, Jeff	2	5		N
Nowland, Ben	2		1	Y
Nua, Mark	1		0.5	Y
Nugent, David	1	3	0.5	N
Nummi, Jukka-Pekka	1		0.5	
Nuno, Carlos	1		0.5	Υ

CaSes#8220142nd-020123m/ent: 0031/1331/65920-2 Pāġed 27/511/1Date āġed: 808/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Elicible	
	No. of the College	N	Added Eligible	
51		Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Nussmeier, Doug	1	2		
O'Brien, Joe	1		0.5	Y
O'Brien, Kevin	2		1	Y
O'Brien, Nick	1		0.5	Y
O'Connor, Adam	1		0.5	
O'Connor, Drew	1		0.5	Y
O'Connor, Sean	1		0.5	Y
O'Donnell, Joe	2		1	Υ
O'Hara, Pat	1		0.5	Y
O'Neal, Matt	1		0.5	Y
O'Neal, Robert	3	1		
O'Neill, Joe	1		0.5	Y
O'Shea, Terry	1	2		N
O'Sullivan, Dennis	1	1	0.5	N
Oakley, Anthony	1	2		
Obeng, William	1		0.5	Y
Oberdorf, Todd	2		1	Y
Ochs, Craig	1		0.5	Y
Octobre, Sandino	4		2	Y
Odenthal, David	2		1	Υ
Odiorne, Charles	1		0.5	Υ
Odunayo Ojo, Oyeniran				
Olalere	5		2.5	Υ
Ogawa, Michihiro	4		2	Υ
Ogden, Marques	1	1	0.5	N
Ogle, Kendall	1	1		
Ogletree, Craig	1	1	0.5	N
Ohrvall, Stefan	1		0.5	
Ohtaki, Yuji	1		0.5	
Ojo, Onome	1		0.5	Υ
Oladipo, Gabriel	1		0.5	
Olds, Rod	1		0.5	Υ
Olford, Jason	1		0.5	
Olinger, Jon	1		0.5	Υ
Oliver, Jeff	2	1	1	N
Oliver, Maurice	1	1	0.5	N
Olsen, Eric	1		0.5	
Olson, Drew	1		0.5	Υ
Olson, Ryan	1		0.5	
Olszewski, Gerald	3		1.5	Y

CaSes#8220142nd-02013311689120-2 Paged 27/611/1Date adject: 808/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Oltmanns, Chris	1	INFL Seasons	0.5	Y
Opoku, Bernard	1		0.5	Y
Ornstein, Gus	1		0.5	Y
Ortiz, Robert	1		0.5	Y
Ortiz, Tony	3		1.5	Y
Orton, Jason	1		0.5	Y
Osborne, Scot	2		1	Y
Osei, Claudius	2		1	Y
Otis, Jeff	1		0.5	Y
Outlaw, J.J.	1		0.5	Y
Owens, Billy	2	1	1	N
Owens, Darrick	1	1	0.5	N
Owens, Dondre	1	_	0.5	Y
Owens, Kerry	1		0.5	Y
Ozongwu, Onoh	1		0.5	Y
Pace, Andrew	1		0.5	Y
Pace, Frank	1		0.5	Y
Padget, Jason	1		0.5	Υ
Pagac, Fred	1		0.5	Υ
Paige, Melvin	2		1	Υ
Painter, Carl	1	2	0.5	N
Pakulak, Glenn	2	2	1	N
Palafox, Jonathan	1		0.5	Υ
Palmer, Dan	1		0.5	Υ
Palmer, Emile	3	1	1.5	N
Palmer, Paul	2	3	1	N
Palmer, Randy	1	1	0.5	N
Pape, Tony	2		1	Υ
Papin, Steve	1		0.5	Υ
Parent, Ralph	1		0.5	Υ
Paris, Steve	1		0.5	Υ
Parker, Carl	2	2	1	N
Parker, Ezekiel	1		0.5	Υ
Parker, Gary	2		1	Υ
Parker, Jeff	1	1	0.5	N
Parker, Mike	1		0.5	Y
Parker, Ricky	1	1	0.5	N
Parker, Riddick	1	7	0	N
Parpan, Brad	1		0.5	Υ
Parquet, Jeremy	1	3	0.5	N

CaSes#8220142nd-020123m/ent: 003111332165920-2 Pāġed 277711/1Date āġed: 808/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Elicible	
	Normalian of NIFI	Nivershaw of	Added Eligible	Discord Only
		Number of		Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Parrish, James	1	3	0.5	N
Parrish, Terrance	1		0.5	
Parry, Josh	1	3	0.5	N
Parson, Rich	1	1		N
Parten, Ty	1	7	0	N
Patrick, Garin	1	1		N
Patrick, Greg	1		0.5	Y
Patterson, Elton	1	2		N
Patterson, Martin	1		0.5	Υ
Patterson, Melvin	2		1	Υ
Patton, Janssen	1		0.5	Υ
Pau'u, Yepi	2		1	Υ
Pawlik, Florian	1		0.5	Y
Payne, Bobby	1		0.5	Υ
Pearce, Dusty	2		1	Υ
Pearce, Mark	2		1	Υ
Pears, Morgan	1	1	0.5	N
Pearson, Kalvin	1	6	0	N
Pearson, Pepe	2		1	Υ
Pease, Brent	2	2	1	N
Peat, Todd	1	6	0	N
Peck, Jared	1	1	0.5	N
Pederson, Doug	2	10	0	N
Peko, Tupe	1	2	0.5	N
Pelluer, Steve	2	7	0	N
Pelshak, Troy	2	2	1	N
Pendergrass, Jon	2		1	Υ
Penn, Kawasak	1		0.5	Υ
Peoples, Corey	1		0.5	
Peoples, Kevin	1		0.5	Υ
Perez, Carlos	1		0.5	
Perez, Christopher	1		0.5	Υ
Perez, Joe	1		0.5	Υ
Perez, Michael	2		1	Υ
Perkins, Justin	1		0.5	Υ
Perkins, Tracey	1		0.5	Υ
Perry, Jason	1	4	0.5	N
Perry, Leon	1		0.5	Υ
Perry, Merceda	2		1	Υ
Perry, William	1	10	0	N

CaSes#822012nd-000020m/ent: 00031/10331/65920-2 Pāġed 27/811/10 at @ faġed: 808/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Elicible	
	Number of NFL	Number of	Added Eligible	Diagonal Only
				Played Only NFL Europe?
Player Dorry Smith Byan	Europe Seasons	INFL Seasons	seasons beyond 5) 0.5	NFL Europe:
Perry-Smith, Ryan	1	3	0.5	Y N
Perryman, Raymond	1	3	0.5	Y
Peterson, Daunta Peterson, Devonte	3		1.5	Y
Peterson, Jason	1		0.5	Y
Peterson, Tim	1		0.5	Y
Petersson, Dan	2		0.5	Y
Petrof, Karl	1		0.5	Y
Pettersson, Jens	2		0.5	Y
Petty, Jermaine	1		0.5	Y
Pfeifenberger, Toko	1		0.5	Y
Philion, Ed	1	2	0.5	N
Phillips, Bobby	3	1	1.5	N
Phillips, Darrell	2		1.5	Y
Phillips, Jeremy	1		0.5	Y
Phillips, Jey	3		1.5	Y
Phillips, Josh	1		0.5	Y
Phillips, Rodnick	1		0.5	Y
Philyaw, Dino	1	3	0.5	N
Phipps, Joe	1	3	0.5	Y
Pickens, Dwight	1		0.5	Y
Pickett, Cody	1	2	0.5	N
Pierce, Charles	1	2	0.5	Y
Pietrowski, Edward	1		0.5	Y
Pinderhughes, Brandon	1		0.5	Y
Pinkard, Mike	2		1	Y
Pinkney, Cleveland	1	3	0.5	N
Pinson, Lawrence	1	3	0.5	Y
Pisetsky, Vitaly	1		0.5	Y
Pittman, Cedric	1		0.5	Y
Pittman, Thomas	1		0.5	Y
Pitts, DeRonnie	1		0.5	Y
Pizzo, Joe	1		0.5	Y
Pjanic, Julian	1		0.5	Y
Plantin, Tony	2		1	Y
Player, Scott	1	10	0	N
Pochman, Owen	1	2	0.5	N
Poe, Billy	2		1	N
Pointer, Chris	1	_	0.5	Y
Pointer, Deron	1		0.5	

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 277911/10/ate #ijed:808/09/2019 Eligible Seasons Added by Credit for NFL Europe

Player				Added Elizabeth	
Pollarde, Fred 1		No. of No. of No.	Nl f		
Pollack, Fred 1 0.5 Y Pollard, Jonathan 1 0.5 Y Pope, O'Lester 2 1 Y Popovich, Jeff 1 0.5 Y Poson, Ted 1 5 0 N Porter, David 1 0.5 Y Porter, David 1 0.5 Y Porter, Luan 1 0.5 Y Porter, Evevin 1 5 0 N Porter, Quinton 1 1 0.5 N Postell, Malcolm 1 0.5 N N Postell, Malcolm 1 0.5 Y Y Powek, Reith 1 2 0.5 N N Powell, Galen 1 3 0.5 N N Powell, Calen 1 7 0 N N N Powell, Galen 1 0.5 N N Powell, Galen 1 0.5 <	S1				
Pollard, Jonathan 1 0.5 Y Pope, O'Lester 2 1 Y Popovich, Jeff 1 0.5 Y Popson, Ted 1 5 0 N Porter, David 1 0.5 Y Porter, Luan 1 0.5 Y Porter, Evevin 1 5 0 N Porter, Quinton 1 1 0.5 N Porter, Quinton 1 1 0.5 N Postell, Malcolm 1 0.5 Y Postell, Malcolm 1 0.5 Y Powell, Roll 1 2 0.5 N Powell, Alvin 1 3 0.5 N Powell, Alvin 1 3 0.5 N Powell, Carl 1 7 0 N Powell, Carl 1 7 0 N Powell, Eric 2 2 1 N	•		NFL Seasons		
Pope, O'Lester 2 1 Y Popson, Ted 1 0.5 Y Porter, David 1 0.5 Y Porter, David 1 0.5 Y Porter, Juan 1 0.5 Y Porter, Kevin 1 5 0 N Porter, Quinton 1 1 0.5 Y Pospisil, Scott 3 1.5 Y Postell, Malcolm 1 0.5 Y Postell, Malcolm 1 0.5 Y Powell, Alvin 1 3 0.5 N Powell, Alvin 1 3 0.5 N Powell, Calen 1 0.5 Y Powell, Calen 1 0.5 Y Powell, Carl 1 7 0 N Powell, Ronnie 1 1 0.5 Y Powell, Ronnie 1 1 0.5 Y Power, Mike 1 <td>•</td> <td></td> <td></td> <td></td> <td></td>	•				
Popovich, Jeff 1 0.5 Y Popson, Ted 1 5 0 N Porter, David 1 0.5 Y Porter, David 1 0.5 Y Porter, Kevin 1 0.5 Y Porter, Quinton 1 1 0.5 N Postell, Quinton 1 1 0.5 N Postell, Malcolm 1 0.5 Y Y Powel, Roct 1 2 0.5 N Powell, Alvin 1 3 0.5 N Powell, Alvin 1 3 0.5 N Powell, Calen 1 0.5 Y Powell, Calen 1 7 0 N Powell, Beric 2 2 1 N Powell, Beric 2 2 1 N Powell, Beric 1 0.5 Y Powell, Sean 1 0.5 Y <					
Popson, Ted 1 5 0 N Porter, David 1 0.5 Y Porter, Luan 1 0.5 Y Porter, Everin 1 5 0 N Porter, Quinton 1 1 0.5 N Postell, Gerin 1 0.5 N N Possell, Malcolm 1 0.5 Y Y Powell, Alvin 1 3 0.5 N Powell, Alvin 1 3 0.5 N Powell, Carl 1 7 0 N Powell, Carl 1 7 0 N Powell, Eric 2 2 1 N Powell, Ronnie 1 1 0.5 N Powell, Sean 1 1 0.5 Y Powell, Sean 1 1 0.5 Y Powers, Ricky 1 1 0.5 Y Prater, Shino	• •				
Porter, David 1 0.5 Y Porter, Juan 1 0.5 Y Porter, Kevin 1 5 0 N Porter, Cquinton 1 1 0.5 N Pospisil, Scott 3 1.5 Y Postell, Malcolm 1 0.5 Y Powel, Keith 1 2 0.5 N Powell, Alvin 1 3 0.5 N Powell, Calen 1 0.5 Y Powell, Carl 1 7 0 N Powell, Eric 2 2 1 N Powell, Ronnie 1 1 0.5 Y Powers, Ricky 1 1 0.5 Y Powers, Ricky 1 1 0.5 N Prater, Shino 1 0.5 Y Presboyr, Robert 2 1 Y Presboyr, Robert 2 1 Y Preston, Charles 1 0.5 Y Priex, Byan 1 0.5 Y Preston, Charles 1 0.5 Y Priex, Shawn 2 1 1 N Priex, Shawn 3 1 N Priex, Shawn 4 1 N Priex, Shawn 5 N Priex, Shawn 5 N Priex, Shawn 6 N Priex, Shawn 7 N Priex, Shawn 1 N P			_		
Porter, Juan 1 0.5 Y Porter, Kevin 1 5 0 N Porter, Quinton 1 1 0.5 N Pospisil, Scott 3 1.5 Y Pospisil, Malcolm 1 0.5 Y Powe, Keith 1 2 0.5 N Powell, Alvin 1 3 0.5 N Powell, Calen 1 0.5 Y Powell, Calen 1 7 0 N Powell, Eric 2 2 1 N Powell, Fric 2 2 2 1 N Powell, Sean 1 0.5 Y Power, Mike 1 0.5 Y Powers, Ricky 1 1 0.5 N Prater, Shino 1 0.5 Y Presbury, Robert 2 1 Y Presley, Bruce 1 0.5 Y Presley, Bruce 1 0.5 Y Price, Idris 1 0.5 Y Price, Ryan 1 0.5 Y Price, Ryan 1 0.5 Y Protor, Ryan 2 1 N Protor, Basil 1 0.5 N Protor, Basil 1 0.5 N Protor, Gharles 1 0.5 Y Protor, Basil 1 0.5 Y Protor, Charles 1 0.5 Y Protor, Basil 1 0.5 N Protor, Basil 1 0.5 Y Protor, Charles 1 0.5 Y Protor, Charles 1 0.5 Y Protor, Basil 1 0.5 Y Protor, Basil 1 0.5 Y Protor, Charles 1 0.5 N Protor, Basil 1 0.5 Y Protor, Michael 2 1 1 N Pringel, Mike 1 1 0.5 N Protor, Basil 1 0.5 Y Protor, Michael 2 1 Y Pruce, David 2 1 Y Pruce, David 1 0.5 Y Protor, Michael 2 1 Y Pruce, David 1 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles	•				
Porter, Kevin 1 5 0 N Porter, Quinton 1 1 0.5 N Possell, Malcolm 1 0.5 Y Powell, Malcolm 1 0.5 Y Powell, Alvin 1 3 0.5 N Powell, Calen 1 0.5 Y Powell, Carl 1 7 0 N Powell, Fic 2 2 1 N Powell, Ronnie 1 1 0.5 N Powell, Sean 1 0.5 Y Powell, Sean 1 0.5 Y Power, Mike 1 0.5 Y Power, Mike 1 0.5 Y Power, Mike 1 0.5 Y Power, Sicky 1 1 0.5 Y Power, Sicky 1 1 0.5 N Prestury, Robert 2 1 Y Presley, Bruce					
Porter, Quinton 1 1 0.5 N Pospisil, Scott 3 1.5 Y Postell, Malcolm 1 0.5 Y Powe, Keith 1 2 0.5 N Powell, Alvin 1 3 0.5 N Powell, Alvin 1 3 0.5 N Powell, Lacen 1 0.5 N Powell, Calen 1 7 0 N Powell, Carl 1 7 0 N Powell, Carl 1 7 0 N Powell, Carl 1 0.5 Y Powell, Carl 1 0.5 N Powell, Carl 1 0.5 N Powell, Carl 1 0.5 N Powell, Gannie 1 0.5 Y Powers, Rick 1 0.5 Y Prester, Mike 1 0.5 Y Presbury, Robert 2					
Pospisil, Scott 3 1.5 Y Postell, Malcolm 1 0.5 Y Powe, Keith 1 2 0.5 N Powell, Alvin 1 3 0.5 N Powell, Calen 1 0.5 Y Powell, Carl 1 7 0 N Powell, Fric 2 2 1 N Powell, Ronnie 1 1 0.5 N Powell, Sean 1 0.5 Y Power, Mike 1 0.5 Y Powers, Ricky 1 1 0.5 N Prowers, Ricky 1 1 0.5 N Prater, Shino 1 0.5 Y Presbury, Robert 2 1 Y Presley, Bruce 1 0.5 Y Pressbury, Robert 2 1 Y Presstor, Charles 1 0.5 Y Prevostor, Nick					
Postell, Malcolm 1 0.5 Y Powe, Keith 1 2 0.5 N Powell, Alvin 1 3 0.5 N Powell, Calen 1 0.5 Y Powell, Carl 1 7 0 N Powell, Eric 2 2 1 N Powell, Ronnie 1 1 0.5 N Powell, Sean 1 0.5 Y Powell, Sean 1 0.5 Y Powers, Ricky 1 1 0.5 Y Powers, Ricky 1 1 0.5 N Presbury, Robert 2 1 Y Y Presbury, Bruce 1 0.5 Y Y Presbury, Bruce 1 0.5 Y Y Prevost, Nick 1 0.5 Y Prevost, Nick 1 0.5 Y Y Price, Shawn 1 0.5 Y P					
Powell, Alvin 1 2 0.5 N Powell, Alvin 1 3 0.5 N Powell, Calen 1 0.5 Y Powell, Carl 1 7 0 N Powell, Carl 1 7 0 N Powell, Carl 1 7 0 N Powell, Carl 1 1 0.5 N Powell, Ronnie 1 1 0.5 N Powell, Sean 1 0.5 N Powell, Sean 1 0.5 Y Powell, Sean 1 0.5 Y Power, Mike 1 0.5 Y Powers, Ricky 1 1 0.5 Y Prestor, Sicky 1 1 0.5 Y Presbury, Robert 2 1 Y Y Presolv, Robert 1 0.5 Y Y Presolv, Charles 1 0.5 Y					
Powell, Alvin 1 3 0.5 N Powell, Calen 1 0.5 Y Powell, Carl 1 7 0 N Powell, Eric 2 2 1 N Powell, Ronnie 1 1 0.5 N Powell, Sean 1 0.5 Y Powers, Mike 1 0.5 Y Powers, Ricky 1 1 0.5 N Prater, Shino 1 0.5 Y Presbury, Robert 2 1 Y Presley, Bruce 1 0.5 Y Presley, Bruce 1 0.5 Y Preson, Charles 1 0.5 Y Preson, Charles 1 0.5 Y Preson, Charles 1 0.5 Y Price, Idris 1 0.5 Y Price, Idris 1 0.5 Y Price, Shawn 1 0.5 Y <td>· ·</td> <td></td> <td></td> <td></td> <td></td>	· ·				
Powell, Carl 1 7 0 N Powell, Eric 2 2 1 N Powell, Ronnie 1 1 0.5 N Powell, Sean 1 0.5 Y Power, Mike 1 0.5 Y Powers, Ricky 1 1 0.5 N Prater, Shino 1 0.5 Y Presbury, Robert 2 1 Y Y Presbury, Robert 2 1 Y </td <td></td> <td>1</td> <td>2</td> <td>0.5</td> <td>N</td>		1	2	0.5	N
Powell, Carl 1 7 0 N Powell, Eric 2 2 1 N Powell, Ronnie 1 1 0.5 N Powell, Sean 1 0.5 Y Powell, Sean 1 0.5 Y Power, Mike 1 0.5 Y Powers, Ricky 1 1 0.5 N Prestor, Shino 1 0.5 Y Presbury, Robert 2 1 Y Y Prestor, Charles 1 0.5 Y Y Prestor, Charles 1 0.5 Y Y Prevots, Nick 1 0.5 Y Y Price, Idris 1 0.5			3		
Powell, Eric 2 2 1 N Powell, Ronnie 1 1 0.5 N Powerl, Ronnie 1 0.5 Y Power, Mike 1 0.5 Y Powers, Ricky 1 1 0.5 N Prater, Shino 1 0.5 Y Presbury, Robert 2 1 Y Y Presbury, Robert 2 1 Y Y Presley, Bruce 1 0.5 Y Y Preston, Charles 1 0.5 Y Y Preston, Charles 1 0.5 Y Y Prevost, Nick 1 0.5 Y Y Prevost, Nick 1 0.5 Y Y Price, Idris 1 0.5 Y Y Price, Shawn 1 0.5 Y Y Pricestley, David 2 1 1 N Y Prince, Ryan 2 1 1 N N Problem, Ryan 2 </td <td>•</td> <td></td> <td></td> <td>0.5</td> <td></td>	•			0.5	
Powell, Ronnie 1 1 0.5 N Powell, Sean 1 0.5 Y Power, Mike 1 0.5 Y Powers, Ricky 1 1 0.5 N Prater, Shino 1 0.5 Y Presbury, Robert 2 1 Y Presbury, Robert 2 1 Y Presley, Bruce 1 0.5 Y Preston, Charles 1 0.5 Y Prevost, Nick 1 0.5 Y Pricke, Idris 1 0.5 Y Pricke, Idris 1 0.5 Y Pricke, Shawn 1 1 N Prince, Shawn 1 1 N Prince, Rya	Powell, Carl			0	N
Powell, Sean 1 0.5 Y Power, Mike 1 0.5 Y Powers, Ricky 1 1 0.5 N Prater, Shino 1 0.5 Y Presbury, Robert 2 1 Y Presbury, Bruce 1 0.5 Y Preston, Charles 1 0.5 Y Prevost, Nick 1 0.5 Y Price, Idris 1 0.5 Y Price, Idris 1 0.5 Y Price, Shawn 1 0.5 Y Price, Shawn 1 0.5 Y Price, Shawn 1 1 N Price, Shawn 1 1 N Price, Shawn 1 1 N Price, Shawn 1	Powell, Eric	2	2	1	N
Power, Mike 1 0.5 Y Powers, Ricky 1 1 0.5 N Prater, Shino 1 0.5 Y Presbury, Robert 2 1 Y Presbury, Bruce 1 0.5 Y Preston, Charles 1 0.5 Y Prevost, Nick 1 0.5 Y Price, Idiris 1 0.5 Y Price, Shawn 1 1 N Price, Shawn 1 1 N Price, Shawn 1 1 N Price, Shawn 1	Powell, Ronnie	1	1	0.5	N
Powers, Ricky 1 1 0.5 N Prater, Shino 1 0.5 Y Presbury, Robert 2 1 Y Presbury, Bruce 1 0.5 Y Preston, Charles 1 0.5 Y Price, Idris 1 0.5 Y Price, Idris 1 0.5 Y Price, Shawn 1 0.5 Y Price, Shawn 1 1 N Y Pricestley, David 2 1 1 N Prisetley, David 1 1 0.5 N Price, David 2 1 1 N Proctor, Michael 2 1 Y Proctor, Michael 2 1	Powell, Sean	1		0.5	Υ
Prater, Shino 1 0.5 Y Presbury, Robert 2 1 Y Presley, Bruce 1 0.5 Y Preston, Charles 1 0.5 Y Prevost, Nick 1 0.5 Y Price, Idris 1 0.5 Y Price, Idris 1 0.5 Y Price, Shawn 1 0.5 Y Priestley, David 2 1 1 N Prince, Ryan 2 1 1 N Pringle, Mike 1 1 0.5 N Pritchett, Wes 1 1 0.5 N Proby, Bryan 2 1 1 N Procell, Jarrett 1 0.5 Y Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Puleri, Charles 1 0.5 Y	Power, Mike	1		0.5	Υ
Presbury, Robert 2 1 Y Presley, Bruce 1 0.5 Y Preston, Charles 1 0.5 Y Prevost, Nick 1 0.5 Y Price, Idris 1 0.5 Y Price, Idris 1 0.5 Y Price, Shawn 1 0.5 Y Priestley, David 2 1 1 N Prince, Ryan 2 1 1 N Pringle, Mike 1 1 0.5 N Pritchett, Wes 1 1 0.5 N Proby, Bryan 2 1 1 N Procell, Jarrett 1 0.5 Y Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Powers, Ricky	1	1	0.5	N
Presley, Bruce 1 0.5 Y Preston, Charles 1 0.5 Y Prevost, Nick 1 0.5 Y Price, Idris 1 0.5 Y Price, Shawn 1 0.5 Y Pricestley, David 2 1 Y Prince, Ryan 2 1 1 N Pringle, Mike 1 1 0.5 N Pritchett, Wes 1 1 0.5 N Proby, Bryan 2 1 1 N Procell, Jarrett 1 0.5 Y Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Prater, Shino	1		0.5	Υ
Preston, Charles 1 0.5 Y Prevost, Nick 1 0.5 Y Price, Idris 1 0.5 Y Price, Shawn 1 0.5 Y Price, Shawn 2 1 Y Priestley, David 2 1 1 N Prince, Ryan 2 1 1 N Pringle, Mike 1 1 0.5 N Pritchett, Wes 1 1 0.5 N Proby, Bryan 2 1 1 N Procell, Jarrett 1 0.5 Y Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Presbury, Robert	2		1	Υ
Prevost, Nick 1 0.5 Y Price, Idris 1 0.5 Y Price, Shawn 1 0.5 Y Pristley, David 2 1 Y Prince, Ryan 2 1 1 N Pringle, Mike 1 1 0.5 N Pritchett, Wes 1 1 0.5 N Proby, Bryan 2 1 1 N Procell, Jarrett 1 0.5 Y Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Presley, Bruce	1		0.5	Υ
Price, Idris 1 0.5 Y Price, Shawn 1 0.5 Y Priestley, David 2 1 Y Prince, Ryan 2 1 1 N Pringle, Mike 1 1 0.5 N Pritchett, Wes 1 1 0.5 N Proby, Bryan 2 1 1 N Procell, Jarrett 1 0.5 Y Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Preston, Charles	1		0.5	Υ
Price, Shawn 1 0.5 Y Priestley, David 2 1 Y Prince, Ryan 2 1 1 N Pringle, Mike 1 1 0.5 N Pritchett, Wes 1 1 0.5 N Proby, Bryan 2 1 1 N Procell, Jarrett 1 0.5 Y Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Prevost, Nick	1		0.5	Υ
Priestley, David 2 1 Y Prince, Ryan 2 1 1 N Pringle, Mike 1 1 0.5 N Pritchett, Wes 1 1 0.5 N Proby, Bryan 2 1 1 N Procell, Jarrett 1 0.5 Y Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Price, Idris	1		0.5	Υ
Prince, Ryan 2 1 1 N Pringle, Mike 1 1 0.5 N Pritchett, Wes 1 1 0.5 N Proby, Bryan 2 1 1 N Procell, Jarrett 1 0.5 Y Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Price, Shawn	1		0.5	Υ
Pringle, Mike 1 1 0.5 N Pritchett, Wes 1 1 0.5 N Proby, Bryan 2 1 1 N Procell, Jarrett 1 0.5 Y Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Priestley, David	2		1	Υ
Pritchett, Wes 1 1 0.5 N Proby, Bryan 2 1 1 N Procell, Jarrett 1 0.5 Y Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Prince, Ryan	2	1	1	N
Pritchett, Wes 1 1 0.5 N Proby, Bryan 2 1 1 N Procell, Jarrett 1 0.5 Y Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Pringle, Mike	1	1	0.5	N
Procell, Jarrett 1 0.5 Y Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y		1	1	0.5	N
Proctor, Basil 1 0.5 Y Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Proby, Bryan	2	1	1	N
Proctor, Michael 2 1 Y Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Procell, Jarrett	1		0.5	Υ
Pruce, David 2 1 Y Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Proctor, Basil	1		0.5	Υ
Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Proctor, Michael	2		1	Υ
Pruitt, Etric 1 2 0.5 N Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y	Pruce, David	2		1	Υ
Pugh, Jimond 1 0.5 Y Puleri, Charles 1 0.5 Y					
Puleri, Charles 1 0.5 Y					
·					
	Putzier, Rollin		2		

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 28011/10/ate āġed: 908/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Elicible	
	No. of No. of No.	N	Added Eligible	
		Number of	Seasons (excluding	Played Only
Player	Europe Seasons	NFL Seasons	seasons beyond 5)	NFL Europe?
Quarshie, Michael	1		0.5	Y
Quass, Oliver	2		1	Υ
Quast, Brad	2		1	Y
Quast, Heinz	1		0.5	Y
Quayle, Cam	1		0.5	Y
Quinnie, Willie	1		0.5	Y
Quinton, Dustin	1		0.5	Y
Rabe, Russell	1	2	0.5	Y
Rader, Jason	1	3	0.5	N
Rafferty, lan	1	1		N
Ragans, Bill	1		0.5	Y
Raiola, Donovan	1	1		N
Randall, Jason	1		0.5	Υ
Rantanen, Jarmo	1		0.5	Υ
Rasmussen, Buck	1		0.5	Υ
Rasul, Amir	1		0.5	Υ
Ratliffe, Leslie	2		1	Y
Rawlings, Josh	1		0.5	Υ
Ray, Bryan	1		0.5	Υ
Ray, Leonard	1		0.5	Υ
Ray, Marcus	1	1	0.5	N
Raynock, Chase	1		0.5	Υ
Reader, Jamie	1	1	0.5	N
Redd, Robert	2		1	Υ
Redmon, Tellis	1		0.5	Υ
Redziniak, Ray	2		1	Υ
Reece, John	1	1	0.5	N
Reed, Michael	2			N
Reed, Rayshun	1	1	0.5	N
Reed, Rodney	1		0.5	Υ
Reem, Matt	1		0.5	Υ
Reese, Allen	1	1	0.5	N
Reese, Jerry	1	1	0.5	N
Reese, Jerry	2	1	1	N
Reese, Jonathan	1		0.5	Υ
Reessing, Dirk	2		1	Υ
Regular, Moses	1	1	0.5	N
Rehage, Derek	1		0.5	Υ
Rehder, Tom	1	3	0.5	N
Reid, Gary	1		0.5	Υ

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 281/11/10/ate āġed: 908/09/2019 Eligible Seasons Added by Credit for NFL Europe

Rice, Al 1 0.5 Y Rice, Anthony 1 0.5 Y Rice, Jacob 1 0.5 Y Rice, Matthew 1 0.5 Y Rice, Tony 2 1 Y Rice-Lockett, Terry 1 0.5 Y				Added Eligible	
Player Europe Seasons NFL Seasons seasons beyond 5) NFL Europe? Reid, Ike 1 0.5 Y Reid, Lamont 1 0.5 N Reid, Nick 1 0.5 Y Reiser, Thomas 1 0.5 Y Rekuc, Brad 1 0.5 Y Renfro, Dusty 2 1 Y Renna, Mike 1 0.5 Y Renna, Mike 1 0.5 Y Rennie, Gunther 1 0.5 Y Rentie, Caesar 2 1 1 N Reuber, Alan 1 1 0.5 N Reynolds, Don 3 1.5 Y Reynolds, Joffrey 1 1 0.5 N Repend, Jamie 1 0.5 N Rhodes, Damien 1 0.5 Y Rhodes, David 1 0.5 Y Rhodes, Reggie 1 0.5		Newsbon of NEI	Number of		Dlavad Oalu
Reid, Ike 1 0.5 Y Reid, Lamont 1 1 0.5 N Reid, Nick 1 0.5 Y Reiser, Thomas 1 0.5 Y Rekuc, Brad 1 0.5 Y Renfro, Dusty 2 1 Y Renna, Mike 1 0.5 Y Renner, Gunther 1 0.5 Y Renner, Gunther 1 0.5 Y Renner, Gunther 1 0.5 Y Rentie, Caesar 2 1 1 N Reuber, Alan 1 1 0.5 N Reynolds, Don 3 1.5 Y Reynolds, Doffrey 1 1 0.5 N Repend, Jamie 1 0.5 N Rhodes, Damien 1 0.5 Y Rhodes, David 1 0.5 Y Rhodes, Reggie 1 0.5 Y Rhodes, Reggie 1 0.5 Y Rice, Al 1	Diamen				
Reid, Lamont 1 1 0.5 N Reid, Nick 1 0.5 Y Reiser, Thomas 1 0.5 Y Rekuc, Brad 1 0.5 Y Renfro, Dusty 2 1 Y Renna, Mike 1 0.5 Y Renna, Mike 1 0.5 Y Renner, Gunther 1 0.5 Y Rentie, Caesar 2 1 1 N Reuber, Alan 1 1 0.5 N Reynolds, Don 3 1.5 Y Reynolds, Joffrey 1 1 0.5 N Reem, Jamie 1 0.5 N Rhodes, Damien 1 0.5 Y Rhodes, David 1 0.5 Y Rhodes, Reggie 1 0.5 Y Rhodes, Reggie 1 0.5 Y Rice, Al 1 0.5 Y Rice, Anthony 1 0.5 Y Rice, Matthew 1	•		NFL Seasons		· ·
Reid, Nick 1 0.5 Y Reiser, Thomas 1 0.5 Y Rekuc, Brad 1 0.5 Y Renfro, Dusty 2 1 Y Renfro, Dusty 2 1 Y Renna, Mike 1 0.5 Y Rennar, Gunther 1 0.5 Y Rentie, Caesar 2 1 1 N Reuber, Alan 1 1 0.5 N Reynolds, Don 3 1.5 Y Reynolds, Joffrey 1 1 0.5 N Reynolds, Joffrey 1 1 0.5 N Rhodes, Damie 1 0.5 Y Rhodes, Damien 1 0.5 Y Rhodes, Reggie 1 0.5 Y Rhodes, Reggie 1 0.5 Y Rice, Al 1 0.5 Y Rice, Anthony 1 0.5 Y Rice, Matthew 1 0.5 Y Rice, Tony 2			4		
Reiser, Thomas 1 0.5 Y Rekuc, Brad 1 0.5 Y Renfro, Dusty 2 1 Y Renner, Gunther 1 0.5 Y Renner, Gunther 1 0.5 Y Renner, Gunther 1 0.5 Y Rentie, Caesar 2 1 1 N Reuber, Alan 1 1 0.5 N Reynolds, Don 3 1.5 Y Reynolds, Doffrey 1 1 0.5 N Repolds, Joffrey 1 1 0.5 N Reheem, Jamie 1 0.5 Y Rhodes, Damien 1 0.5 Y Rhodes, David 1 0.5 Y Rhodes, Mike 1 0.5 Y Rhodes, Reggie 1 0.5 Y Rice, Al 1 0.5 Y Rice, Anthony 1 0.5 Y Rice, Matthew 1 0.5 Y Rice, Tony <t< td=""><td></td><td></td><td>1</td><td></td><td></td></t<>			1		
Rekuc, Brad 1 0.5 Y Renfro, Dusty 2 1 Y Renna, Mike 1 0.5 Y Renner, Gunther 1 0.5 Y Renner, Gunther 1 0.5 Y Rentie, Caesar 2 1 1 N Reuber, Alan 1 1 0.5 N Reynolds, Don 3 1.5 Y Reynolds, Joffrey 1 1 0.5 N Rheem, Jamie 1 0.5 Y Rhodes, Damien 1 0.5 Y Rhodes, David 1 0.5 Y Rhodes, Mike 1 0.5 Y Rhodes, Reggie 1 0.5 Y Rice, Al 1 0.5 Y Rice, Al 1 0.5 Y Rice, Jacob 1 0.5 Y Rice, Matthew 1 0.5 Y Rice-Lockett, Terry 1 0.5 Y	· · · · · · · · · · · · · · · · · · ·				
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Renna, Mike 1 0.5 Y Renner, Gunther 1 0.5 Y Rentie, Caesar 2 1 1 N Reuber, Alan 1 1 0.5 N Reynolds, Don 3 1.5 Y Reynolds, Joffrey 1 1 0.5 N Rheem, Jamie 1 0.5 Y Rhodes, Damien 1 0.5 Y Rhodes, David 1 0.5 Y Rhodes, Mike 1 0.5 Y Rhodes, Reggie 1 0.5 Y Rice, Al 1 0.5 Y Rice, Al 1 0.5 Y Rice, Jacob 1 0.5 Y Rice, Matthew 1 0.5 Y Rice, Lockett, Terry 1 0.5 Y	·				
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Reuber, Alan 1 1 0.5 N Reynolds, Don 3 1.5 Y Reynolds, Joffrey 1 1 0.5 N Rheem, Jamie 1 0.5 Y Rhodes, Damien 1 0.5 Y Rhodes, David 1 0.5 Y Rhodes, Mike 1 0.5 Y Rhodes, Reggie 1 0.5 Y Rice, Al 1 0.5 Y Rice, Anthony 1 0.5 Y Rice, Jacob 1 0.5 Y Rice, Matthew 1 0.5 Y Rice, Tony 2 1 Y Rice-Lockett, Terry 1 0.5 Y					
Reynolds, Don 3 1.5 Y Reynolds, Joffrey 1 1 0.5 N Rheem, Jamie 1 0.5 Y Rhodes, Damien 1 0.5 Y Rhodes, David 1 0.5 Y Rhodes, Mike 1 0.5 Y Rhodes, Reggie 1 0.5 Y Rice, Al 1 0.5 Y Rice, Anthony 1 0.5 Y Rice, Jacob 1 0.5 Y Rice, Matthew 1 0.5 Y Rice, Tony 2 1 Y Rice-Lockett, Terry 1 0.5 Y	,				
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Rheem, Jamie 1 0.5 Y Rhodes, Damien 1 0.5 Y Rhodes, David 1 0.5 Y Rhodes, Mike 1 0.5 Y Rhodes, Reggie 1 0.5 Y Rice, Al 1 0.5 Y Rice, Anthony 1 0.5 Y Rice, Jacob 1 0.5 Y Rice, Matthew 1 0.5 Y Rice, Tony 2 1 Y Rice-Lockett, Terry 1 0.5 Y	•				
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Rice, Al 1 0.5 Y Rice, Anthony 1 0.5 Y Rice, Jacob 1 0.5 Y Rice, Matthew 1 0.5 Y Rice, Tony 2 1 Y Rice-Lockett, Terry 1 0.5 Y					
Rice, Anthony 1 0.5 Y Rice, Jacob 1 0.5 Y Rice, Matthew 1 0.5 Y Rice, Tony 2 1 Y Rice-Lockett, Terry 1 0.5 Y	Rhodes, Reggie				
Rice, Jacob 1 0.5 Y Rice, Matthew 1 0.5 Y Rice, Tony 2 1 Y Rice-Lockett, Terry 1 0.5 Y	Rice, Al				
Rice, Matthew 1 0.5 Y Rice, Tony 2 1 Y Rice-Lockett, Terry 1 0.5 Y	·				
Rice, Tony 2 1 Y Rice-Lockett, Terry 1 0.5 Y	Rice, Jacob	1		0.5	
Rice-Lockett, Terry 1 0.5 Y	Rice, Matthew			0.5	
,	Rice, Tony	2		1	
Richard Cisco	Rice-Lockett, Terry	1		0.5	
Michard, Cisco	Richard, Cisco	1		0.5	Y
Richard, Gary 2 1 1 N	Richard, Gary	2	1	1	N
Richardson, David 1 3 0.5 N	Richardson, David	1	3	0.5	N
Richardson, Lawrence 1 0.5 Y	Richardson, Lawrence	1		0.5	Υ
Richey, Derrick 1 0.5 Y	Richey, Derrick	1		0.5	Υ
	Richter, Marcus	4		2	
Ricker, A.J. 0.5 Y	Ricker, A.J.	1		0.5	Υ
Rideaux, Darrell 1 0.5 Y	Rideaux, Darrell	1		0.5	Y
Ridgley, Troy 3 1.5 Y	Ridgley, Troy	3		1.5	Y
	Riecke, Hans-Ullrich	1		0.5	
Riggins, Quentin 1 0.5 Y	Riggins, Quentin	1		0.5	Y
Riggs Jr., Gerald 1 0.5 Y	Riggs Jr., Gerald	1		0.5	Y
Rilatt, Dave 1 0.5 Y	Rilatt, Dave	1		0.5	Υ
Riley, Andre 1 0.5 Y	Riley, Andre	1		0.5	Υ
Riley, Earl 2 1 1 N	Riley, Earl	2	1	1	N
Ritchey, James 2 1 1 N	Ritchey, James	2	1	1	N
Ritter, Craig 2 1 Y	Ritter, Craig	2		1	Y

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 28211/10/ate #ijed:908/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Elicible	
	No. of the confidence	N	Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Ritzmann, Constantin	1	1	0.5	N
Rivers, David	2		1	Y
Robb, Doug	1		0.5	Υ
Robbins, Monte	1		0.5	Y
Robeen, Craig	1		0.5	Υ
Roberts, John	1		0.5	Υ
Robertson, Barry	1		0.5	Y
Robertson, Reggie	1		0.5	Υ
Robertson, Virgil	1		0.5	Y
Robinson, Darnell	1		0.5	Υ
Robinson, Don	1		0.5	Υ
Robinson, Ed	1	1	0.5	N
Robinson, Frank	1	2	0.5	N
Robinson, Jimmy	1		0.5	Υ
Robinson, Jimmy	1		0.5	Υ
Robinson, Robbie	1		0.5	Υ
Robinson, Roderick	1		0.5	Υ
Robinson, Roger	1		0.5	Υ
Robinson, Terrence	3	1	1.5	N
Robsock, Tom	3		1.5	Υ
Rocker, Tracy	1	2	0.5	N
Rockett, Ron	1		0.5	Υ
Rockwood, Mike	1	1	0.5	N
Rodgers, Anthony	1		0.5	Υ
Rodgers, Jeff	1		0.5	Υ
Rodgers, Willie	1		0.5	Υ
Rodríguez, Vicenç	3		1.5	Υ
Rodrigue, Ruffin	1		0.5	Υ
Rodriguez, Antonio	2		1	Υ
Rodriguez, Joel	1		0.5	Υ
Rodriguez, Robert	1		0.5	Υ
Rodriguez, Tito	1		0.5	Υ
Roehl, Jeff	1	1	0.5	N
Rogers, Antwaun	1		0.5	Υ
Rogers, Brian	1		0.5	
Rogers, Ernie	2		1	Υ
Rogers Jr., Glenn	1	1	0.5	
Rogers, Kendrick	1		0.5	
Rogers, Kirk	1		0.5	
Rogers, Lamar	1	2		
				11

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Rogers, Ronald	1	IVI E SCUSOIIS	0.5	Y
Rogers, Wayne	1		0.5	Y
Rohloff, Cabel	1		0.5	Y
Rolen, Chad	1		0.5	
Rollins, Kevin	1		0.5	Y
Rolovich, Nick	1		0.5	Υ
Rone, Andre	1		0.5	Υ
Rooths, James	2		1	Υ
Rosado, Carlos	7		3.5	Υ
Roscoe, Chris	1		0.5	Υ
Roscoe, James	1		0.5	Υ
Rose, Blaine	1		0.5	Υ
Rose, Shaun	1		0.5	Υ
Rosenstiel, Robert	1	1	0.5	N
Rosga, Steve	1		0.5	Υ
Ross, Derrick	1	1	0.5	N
Ross, Gregory	2		1	Υ
Ross, Isaiah	1		0.5	Υ
Ross, Jerry	1		0.5	Υ
Ross, Oliver	1	7	0	N
Ross, Phil	2		1	Υ
Ross, Richie	1		0.5	Υ
Roth, Tom	1		0.5	Υ
Rouen, Tom	1	13	0	N
Roundtree, Alphonso	1	1	0.5	N
Roundtree, Durand	1		0.5	Υ
Rountree, Glenn	1		0.5	
Rouse, Wardell	1	1	0.5	
Rowan, Levonne	1		0.5	
Rowe, Joe	1	1	0.5	
Rowell, Eugene	1	1	0.5	
Rowell, Tony	1		0.5	
Royal, Desmond	2		1	Υ
Royal, Ricky	1		0.5	
Royster, Mazio	1	3	0.5	
Rozic, Bernard	2		1	
Rubin, DeAndrew	1		0.5	
Rubin, Marek	1		0.5	
Rubley, T.J.	1	2	0.5	
Rueda, Marco	1		0.5	Υ

CaSes#8220142nd-020123m/ent: 003111332165920-2 Pāġed 28411/1Date āġed:908/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Elicible	
	No. of the confidence	Nbc	Added Eligible	
S1		Number of	Seasons (excluding	Played Only
Player	Europe Seasons	NFL Seasons	seasons beyond 5)	NFL Europe?
Ruffin, Aaron	1		0.5	Y
Ruffin, Jonathan	1		0.5	
Ruiz, Jose	1		0.5	Y
Rundberg, Peter	1		0.5	Y
Rush, Torrey	1		0.5	Υ
Russell, Fred	1		0.5	Y
Russell, Jeff	2		1	Y
Russell, Sean	2		1	Υ
Ruth, Mike	2	2	1	N
Rutherford, Reynard	1		0.5	Υ
Rutherford, Rod	1		0.5	Υ
Ruzek, Roger	1	7		N
Ryans, Larry	2	1	1	N
Rybarczyk, Slawomir	2		1	Υ
Sacca, John	2		1	Υ
Sacca, Tony	2	1		N
Sadler, Adrian	1		0.5	Υ
Saenz, Richard	1		0.5	Υ
Salden, Youri	1		0.5	Υ
Saldi, John	1		0.5	Υ
Sale, Ken	2		1	Υ
Salmon, Mike	2	1	1	N
Salo, Juha	1		0.5	Υ
Saltz, Lee	2		1	Υ
Sam, P.K.	1	1	0.5	N
Samp, Chris	1		0.5	
Sams, Tierre	1		0.5	
Samuel, Cedric	1		0.5	
Samuel, Peda	1		0.5	
Sanchez, Jeff	2		1	Υ
Sancho, Ron	2		1	Υ
Sander, Mark	2	1	1	N
Sanders, Brandon	1	3	0.5	N
Sanders, David	2		1	Υ
Sanders, Steve	1	1	0.5	N
Sanders, Tracy	2		1	Υ
Sanders, Tyrone	1		0.5	
Sanders, Vaughn	1		0.5	Υ
Sandidge, Tim	1	1	0.5	N
Sandlin, Kenny	1		0.5	Υ

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 28511/10/ate āġed:908/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Flieble	
	No. of the College	Nbc	Added Eligible	
		Number of	Seasons (excluding	Played Only
Player	Europe Seasons	NFL Seasons	seasons beyond 5)	NFL Europe?
Sands, Justin	1		0.5	Y
Sands, Mike	1	_	0.5	Y
Sands, Terdell	1	7	0	N
Sanford, Sulecio	1		0.5	Y
Sano, Tadani	1		0.5	Y
Sape, Lauvale	1	2	0.5	N
Sapega, Oleg	2		1	Υ
Sapolu, Saute	1		0.5	Υ
Sargeant, Shatony	2		1	Υ
Sargent, Broderick	1	3	0.5	N
Sargent, Tony	2		1	Υ
Sasano, Naoki	1		0.5	Υ
Satomi, Kohei	4		2	Υ
Saunders, Cedric	1	1	0.5	N
Saunders, Troy	1		0.5	Υ
Sauve, Jeff	1		0.5	Υ
Savage, Damon	1		0.5	Υ
Savage, Ray	2		1	Υ
Savage, Sebastian	1	2	0.5	N
Save, Bryan	2		1	Υ
Savoie, Nicky	1	1	0.5	N
Saxton, Brian	1	2	0.5	N
Scaldaferri, Stephen	1		0.5	Υ
Scales, Shawn	1		0.5	Υ
Scates, Cody	1		0.5	Υ
Scharf, Tim	1		0.5	Υ
Scharff, Scott	1		0.5	Υ
Schau, Tom	1		0.5	Υ
Schenk, Volker	1		0.5	Υ
Schlecht, John	2	1	1	N
Schlichting, Craig	2		1	Υ
Schmidt, Brennan	1		0.5	Υ
Schmidt, Dan	1		0.5	Υ
Schmidt, Taylor	1		0.5	Υ
Schmitt, Kyle	1		0.5	Υ
Schnee, Yoan	5		2.5	Υ
Schneider, Astor	1		0.5	Υ
Schneider, Sebastian	1		0.5	Υ
Schober, Daniel	2		1	Υ
Schonewolf, Rich	2		1	Υ

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Schorejs, Derek	1	INFL Seasons	0.5	Y
Schroeder, Andreas	1		0.5	Y
Schumacher, Jerry	1		0.5	Y
Schuster, Marcus	1		0.5	
Scifres, Steve	1	3	0.5	N
Sciullo, Steve	1	2		
Scott, Cedric	1	2	0.5	N
Scott, Chad	1		0.5	
Scott, Earl	3		1.5	
Scott, Gregory	1	2	0.5	
Scott, Joseph	1		0.5	Y
Scott, Kevin	1	3		
Scott, Michael	1	3	0.5	Y
Scott, Patrick	1		0.5	
Scott, Pete	1		0.5	Y
Scott, Robert	1		0.5	Y
Scott, Sean	1		0.5	Y
Scott, Walter	2	1	1	N
Scott, Yusuf	1	3	0.5	N
Scukanec, Jason	1		0.5	Υ
Seals, Mark	2		1	Υ
Seals, Richard	1		0.5	Υ
Searcy, Elliott	1		0.5	Υ
Searcy, George	1		0.5	Υ
Searels, Stacy	1		0.5	Υ
Sears, Chad	1		0.5	Υ
Seay, Clarence	1		0.5	Υ
Seibert, Ingo	4		2	Υ
Seiff, Jan	1		0.5	Υ
Seigler, Dexter	2	2	1	N
Sellers, Donald	2		1	Υ
Senczyszyn, Dave	1		0.5	Υ
Setta, Nicholas	2		1	Υ
Setterstrom, Chad	1		0.5	Υ
Setzer, Bobby	1	2	0.5	N
Seumalo, Joe	1		0.5	Υ
Sewell, Josh	1		0.5	Υ
Shabazz, Siddeeq	1	3	0.5	N
Shafer, Mike	1		0.5	
Shamburger, Clifton	1		0.5	Υ

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 28711/10/ate #ijed: 908/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Elicible	
	No. of No. of No.	Nbc	Added Eligible	
DI		Number of		Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Shannon, John	2	2	1	N
Sharpe, Montique	1	1	0.5	N
Sharpe, Ricky	1		0.5	Y
Shaw, Bryant	3		1.5	Y
Shaw, Ricky	1	3	0.5	N
Shay, Brian	1		0.5	Y
Sheahan, Kevin	1		0.5	Υ
Shearer, Curtis	1		0.5	
Sheldon, Dan	1		0.5	Υ
Shell, Lin-J	1		0.5	
Shelley, Jason	4		2	Υ
Shelling, Chris	1	3	0.5	
Sherrell, Anthony	1		0.5	Υ
Shields, Scott	1	2	0.5	N
Shimizu, Satoshi	1		0.5	Υ
Shinsuke, Kashino	1		0.5	Υ
Shipley, Ron	1		0.5	Υ
Shivers, Jason	1	1	0.5	
Shor, Alex	1		0.5	Υ
Short, Jason	1	3	0.5	N
Shorts, Peter	1	1	0.5	N
Showell, Malcolm	3		1.5	
Shuck, Kofi	1		0.5	Υ
Shufelt, Pete	1	1	0.5	N
Shuler, Alonzo	1		0.5	Υ
Sievers, Todd	1		0.5	
Sign, Bobby	2		1	Υ
Sikyala, Mukala	1		0.5	Υ
Sileo, Dan	1	1	0.5	N
Silvers, Elliot	1	1	0.5	N
Silvestri, Don	2	2	1	N
Simmons, Antuan	1		0.5	Υ
Simmons, Jason	1		0.5	Υ
Simmons, Michael	1	2	0.5	N
Simmons, Rasheed	1		0.5	Υ
Simmons, Sam	1	1	0.5	N
Simmons, Stacey	1	1	0.5	N
Simmons, Terrance	1	1	0.5	N
Simnjanovski, Brian	2		1	Υ
Simon, Jose	2		1	Υ

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 28811/10/ate #ijed:908/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Elizabet	
			Added Eligible	
-	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons	NFL Seasons	seasons beyond 5)	NFL Europe?
Simon, Salem	1		0.5	Y
Simons, Kevin	1	1	0.5	N
Simpson, John	1		0.5	Y
Simpson, Teto	2		1	Y
Simpson, Tim	1	1	0.5	N
Sims, Dominique	1		0.5	Y
Sims, Doug	1		0.5	Y
Sims, Kelly	3		1.5	Y
Sinclair, Matt	1	1	0.5	N
Singer, Paul	1		0.5	Y
Singletary, James	1		0.5	Y
Sischka, Mario	1		0.5	Y
Sissener, Phillip	2		1	Y
Skaggs, Justin	1	2	0.5	N
Skinner, Justin	1		0.5	Y
Slack, Reggie	1		0.5	Y
Slaten, Joey	1		0.5	Υ
Slay, Henry	2	1		N
Slutsky, Mikhail	2		1	Υ
Small, O.J.	1	1		N
Smider, Brian	2		1	Y
Smith, Akil	1		0.5	Y
Smith, Akili	1	4	0.5	N
Smith, Alvin	1		0.5	Y
Smith, Art	1		0.5	Y
Smith, Avrom	1		0.5	Y
Smith, Brad	1	1		N
Smith, Brian	1		0.5	
Smith, Brian	1	2	0.5	N
Smith, Carnel	2		1	Y
Smith, Chandler	1		0.5	Y
Smith, Chris	2		1	Y
Smith, Clifton	1	2	0.5	N
Smith, David	2		1	Y
Smith, Davis	1		0.5	Y
Smith, Dedric	3		1.5	Y
Smith, Dennis	1	1	0.5	N
Smith, Ed	1			
Smith, Elliot	1	2		N
Smith, Emory	1		0.5	Y

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Smith, Herman	1	1VI L Seasons	0.5	N N
Smith, Irvin	2	2	0.5	Y
Smith, J.J.	1		0.5	Y
Smith, Jamel	3		1.5	Y
Smith, Jermaine	1		0.5	Y
Smith, Joe	1		0.5	Y
Smith, Jonathan	2		1	Y
Smith, Justin	1	1	0.5	N
Smith, Kyle	1	_	0.5	Y
Smith, Lawrence	1	1	0.5	N
Smith, Leroy	1		0.5	Υ
Smith, Marcus	1		0.5	Y
Smith, Marquis	1	3	0.5	N
Smith, Michael	1		0.5	Υ
Smith, Nick	2		1	Υ
Smith, Richard	1		0.5	Υ
Smith, Richard	1	1	0.5	N
Smith, Roland	1		0.5	Υ
Smith, Ron	1	1	0.5	N
Smith, Ryan	1		0.5	Υ
Smith, Shaun	2		1	Υ
Smith, Shawn	1		0.5	Υ
Smith, Steve	1	1	0.5	N
Smith, Thomas	1		0.5	Υ
Smith, Tracy	1		0.5	Y
Smith, Trent	1	1	0.5	N
Smith, Tyrone	2		1	Y
Smith, Willie	1		0.5	Y
Smith, Zuriel	1	1	0.5	N
Snead, Willie	1		0.5	
Snell, Ben	2		1	Υ
Snell, Isaac	1	2	0.5	N
Snell, Shannon	1		0.5	Υ
Snelling, Robbie	1		0.5	Υ
Snelson, Eric	1		0.5	Υ
Snow, Percy	1	3	0.5	N
Snyder, Chris	1		0.5	Υ
Sochart, Peter	2		1	Υ
Solano, Salomon	2		1	Υ
Solomon, John	1		0.5	Υ

CaSes#822014nd-02013m/ent: 0031/1331/65920-2 Pāġed 29011/1Date āġed 008/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Elicible	
	Nicos bear of NITI	Niversia au af	Added Eligible	Discord Only
Diaman		Number of	Seasons (excluding	Played Only
Player	Europe Seasons	NFL Seasons	seasons beyond 5)	NFL Europe?
Soltis, Paul	1		0.5	Y
Sommersell, Andre			0.5	Y
Soriano, Jamil	1 4		0.5	Y
Southward Brandon			2	Y
Southward, Brandon	1		0.5 0.5	Y
Spann, Gregory	1		0.5	Y
Spears, Calvin Spencer, James	2		0.5	Y
	1		0.5	Y
Spikes, Rashon Spinner, Bryson	1		0.5	Y
Spragan, Donnie	1	6		N
	1	0	0.5	Y
Sprinkles Kovin			0.5	Y
Sprinkles, Kevin	1 4	1	0.5	N
Stacy, Siran	1	1	0.5	Y
Stafford, Shane	1			Y
Stallings Robert		1	0.5	
Stallings, Robert	1	1	0.5	N
Stallworth, Cedric	2		1	Y Y
Stallworth, Larry	1 2		0.5	Y
Stambaugh, Phil		7	1	
Stanley Jarah	3	7	0	N
Stanley, Israel		1		N
Stanley, Matt	1	1	0.5	N
Stanley, Sylvester	1	1		N
Stansbury, Ed	1	1	0.5	N
Starcevich, Steve	1		0.5	Y
Starck, Justin	1		0.5	Y
Starling, Kendrick	1			N
Stedman, Troy	1	1		N
Steele, Ben	1	2		
Steen, Grant	1		0.5	Y
Steitz, Nick	1		0.5	
Stelly, Joel	1		0.5	Υ
Stemke, Kevin	1	2		N
Stenavich, Adam	1		0.5	Y
Stensrud, Andy	1		0.5	Y
Stephens, Eric	1		0.5	Y
Stephens, Leonard	1			N
Stephens, Richard	2	2	1	N
Stephenson, Milford	1		0.5	Υ

CaSes#822014nd-02013m/ent: 0031/1331/65920-2 Pāġed 291/11/1Date āġed 008/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Diavor	Europe Seasons		seasons beyond 5)	NFL Europe?
Player Sterling, Rob	1	INFL Seasons	0.5	Y
Stevens, L.C.	1		0.5	Y
Stevenson, Derik	1		0.5	Y
Stewart, Ed	1		0.5	
Stewart, Todd	1		0.5	Y
Stewart, Vincent	1		0.5	Y
Still, Eric	2		0.5	Y
Stock, Mark	1	3		
Stoerner, Clint	1	2	0.5	N
Stokes, Andy	1		0.5	
Stokes, Barry	2	8	0.5	N
Stonebreaker, Mike	1	2		N
Storm, Matt	1		0.5	Y
Stowers, Don	1		0.5	Y
Stowers, Tommie	2	3	0.5	N
Stradford, Troy	1	6		N
Strey, Derek	1	U	0.5	Y
Strickland, Timothy	1		0.5	Y
Strickland, Vernon	1		0.5	Y
Strohmeyer, Dax	1		0.5	Y
Strong, Derrick	3		1.5	Y
Stubbe, Kalle	1		0.5	Y
Stubbins, Willie	1		0.5	Y
Stubbs, Terrence	1		0.5	Y
Stuber, Tim	2		1	Y
Stuckey, Shawn	1	1	0.5	
Studdard, Greg	1	_	0.5	Y
Studstill, Darren	1	3		
Stukes, Dwayne	2		1	Y
Stull, Jim	2		1	
Sturgis, Oscar	1	1	0.5	
Stursberg, Philipp	1	_	0.5	
Suarez, Mike	1		0.5	Υ
Sumner, Colin	1		0.5	
Sumter, Glenn	1		0.5	
Sunaga, Takayuki	1		0.5	
Sunvold, Mike	1		0.5	
Surrency, Justin	1		0.5	
Sutter, Ryan	1	1	0.5	
Sutton, Mike	3			
,		_		

CaSes#822014nd-00001m/ent: 0001110331165920-2 Pāġed 29211/10 at @ faġed 2008/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Fligible	
	Name to a set NIFI	Niversia au af	Added Eligible	Diamed Only
nt.		Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Sutton, Ricky	1	1	0.5	N
Swaggert, Brent	1		0.5	
Swain, Quentin	2		1	Y
Swann, Charles	2	1		N
Swanson, Brennen	1		0.5	Y
Sweeney, Kevin	1	2		N
Sweeney, Matt	1	2	0.5	Y
Swiney, Erwin	1	2		
Symonette, Alan	1	4	0.5	Y
Symonette, Josh	1	1		
Symons, B.J.	2		1	Y
Syptak, John	1		0.5	Y
Szeredy, Scott	2		1	Y
Tagoai, Junior	1		0.5	Y
Takavitz, Kyle	1		0.5	Y
Talamaivao, Pene	1		0.5	Y
Talley, Charles	1		0.5	Y
Taneyhill, Steve	1		0.5	
Tanks, Michael	1		0.5	Y
Taotoai, Josh	1		0.5	
Taplin, Greg	1		0.5	Y
Tarver, Hurley	2		1	Y
Tate, Adam	1		0.5	Υ
Tate, Darian	1		0.5	Y
Tate, Joe	1		0.5	Y
Tate, Mark	1		0.5	
Tate, Willy	1	2	0.5	
Taulealea, Samuel	1		0.5	
Taves, Josh	1	4		
Taylor, Chris	1		0.5	
Taylor, Cordell	1	2	0.5	
Taylor, James	1		0.5	
Taylor, Jay	1	1	0.5	
Taylor, Jermaine	1		0.5	
Taylor, Mike	2		1	Y
Taylor, T.C.	1		0.5	
Taylor, Tony	1	1	0.5	
Taylor, Tyrone	1		0.5	
Taylor, Winston	1		0.5	
Teichelman, Lance	1	1	0.5	N

CaSes#822014nd-02013m/ent: 0031/1331/65920-2 Pāġed 29311/1Date āġed 208/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Fligible	
	Newsbon of NEI	Neurobou of	Added Eligible	Diamed Only
Discour		Number of		Played Only
Player Talla Custova	Europe Seasons	NFL Seasons	seasons beyond 5)	NFL Europe?
Tella, Gustavo	3		1.5	Υ Υ
Tellison, A.C.			0.5	
Telp, Davon	7		0.5	Y
Temming, Frank			3.5	
Tenner, Jason	1	-	0.5	Y
Terrell, David	1	5	0	N
Terry, Nate	1		0.5	Y
Texada, Kip	1		0.5	
Tharpe, Nigel	1		0.5	Y
Thieneman, Chris	1		0.5	Y
Thigpen, Tommy	2		1	Y
Thomas, Art	1		0.5	
Thomas, Corey	1	1	0.5	N
Thomas, Cornell	1	1	0.5	N
Thomas, Craig	1		0.5	Y
Thomas, Dave	2		1	Y
Thomas, Dee	1	1	0.5	N
Thomas, Edward	1	3	0.5	
Thomas, Efrum	1		0.5	Y
Thomas, Franklin	1		0.5	
Thomas, Johnny	1		0.5	Υ
Thomas, Malcolm	1		0.5	Υ
Thomas, Mark	1	1	0.5	N
Thomas, Markus	3		1.5	Υ
Thomas, Marvin	1	1	0.5	N
Thomas, Roderick	1		0.5	Υ
Thomas, Rodney	1	4	0.5	N
Thomas, Sean	1		0.5	Υ
Thomas, Wilson	1		0.5	
Thomassie, Ryan	1		0.5	Υ
Thompkins, Gary	1		0.5	Υ
Thompson, Anthony	1	1	0.5	N
Thompson, Aubrey	1		0.5	Υ
Thompson, Charles	2		1	Υ
Thompson, Chris	1	1	0.5	N
Thompson, David	1	2	0.5	N
Thompson, David	1		0.5	Υ
Thompson, Duvol	1		0.5	Υ
Thompson, Jamie	1	1	0.5	N
Thompson, Kevin	2	1	1	N

CaSes#822012nd-(D0020m/ent: 00031/10331/65920-2 Pāġed 29/411/1Date #ijed:008/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Nemakan of NEI	Nivershau of	Added Eligible	Diamed Only
Dlavar				Played Only
Player Owin	Europe Seasons	NFL Seasons	seasons beyond 5)	NFL Europe?
Thompson, Orrin	1		0.5	Υ Υ
Thompson, Shelton			0.5	
Thompson, Steve	3		0.5	Y Y
Thornton, James			1.5	
Thornton, Randy	1		0.5	Y
Thorp, Deron	2		1	Y
Thorson, Chad	1	2	0.5	
Threats, Jabbar	2	3	1	
Thurmon, Elijah	1		0.5	Y
Thweatt, Byron	1	1	0.5	
Timothee, Kevin	1		0.5	Y
Tinsley, Derrick	1		0.5	
Tisdale, Casey	1		0.5	Y
Titley, Michael	4		2	Y
Toeaina, Albert	1		0.5	Y
Tokimoto, Masaki	2		1	Y
Tolbert, Michael	1		0.5	Y
Toler, Burl	1		0.5	Y
Topcu, Cüneyt	4		2	Y
Torretta, Gino	1	2	0.5	N
Torrey, Andre	1		0.5	Y
Torrey, Brandon	1		0.5	Υ
Torriero, Ben	2		1	Υ
Totten, Erik	1	1	0.5	N
Tovo, Tom	5		2.5	Υ
Townsend, Larry	2		1	Y
Trafford, Rodney	1	1	0.5	N
Trainor, Kendall	2		1	Υ
Travis, Mack	1	1	0.5	N
Traynor, Pete	1		0.5	Υ
Tregubov, Maxim	1		0.5	Υ
Trieb, Darrin	1		0.5	Y
Tripp, Dennis	1		0.5	Y
Trout, Brad	1		0.5	Υ
Truitt, Leroy	1		0.5	
Tsuji, Haruhito	1		0.5	
Tuch, Sebastian	1		0.5	
Tucker, Anthony	1		0.5	
Tucker, Erroll	1	2	0.5	
Tucker, Josh	1		0.5	

CaSes#822014nd-00001m/ent: 0001110331165920-2 Pāġed 29511/10 at @ faġed 2008/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Elicible	
	Nicos bear of NITI	Nicosala a u a f	Added Eligible	Discord Only
Diaman				Played Only
Player Mark	Europe Seasons		seasons beyond 5)	NFL Europe?
Tucker, Mark	1	1	0.5	N Y
Tuell, Guy			0.5	
Tugbenyoh, Mawuko	2	2	1	Y
Tuipala, Joe	1	2		N Y
Tunney, Jono	1		0.5	Y
Tupai, Tai	2		0.5	Y
Turner, Derrick				Y
Turner, Eric	1		0.5	Y
Turner, Hart	1 2		0.5	Y
Turner, Lonnie			1	
Turner, Shawn	1	6	0.5	Y
Turner, Vernon	3	6		N
Tuten, Henry	1		0.5	Y
Tuthill, James	1	1		N
Tynes, Lawrence	1	9	0	N
Uberschar, Jens	1		0.5	Y
Ude, Mathias	1		0.5	Υ
Uestuenel, Alexander	1	_	0.5	Υ
Ulmer, Artie	1	7	0	N
Ulrich, Matt	1	2	0.5	N
Unertl, Jeremy	1		0.5	Υ
Van Dyke, Ryan	1		0.5	Υ
Vance, Chris	1		0.5	Y
Vandermade, Lenny	1		0.5	Υ
Vandervelt, Jamie	1		0.5	Υ
Vann, LaDaris	1		0.5	Υ
Vaughn, Damian	2		1	Υ
Vaughn, Jon	1	4		N
Vaughn, Lee	1		0.5	Υ
Vaughn, Vickiel	1	1		
Venzke, Patrick	3		1.5	Υ
Verdon, Jimmy	1	1		
Vick, Roger	1	4		N
Vickerson, Quartez	1		0.5	Υ
Vieira, Steven	2		1	Υ
Viger, David	1		0.5	Υ
Ville, Zach	2		1	Υ
Vines, Ken	1		0.5	Υ
Vinson, Tony	1	2	0.5	N
Vissa, Sergio	1		0.5	Υ

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 29611/10/ate #ijed:008/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of		Played Only
Player	Europe Seasons	NFL Seasons	seasons beyond 5)	NFL Europe?
Vitale, John	2		1	Υ
Volk, Dave	1		0.5	Υ
Vollath, Thomas	1		0.5	Υ
Von Garnier, Max	1		0.5	Υ
Voorhees, Barry	2		1	Υ
Waddell, Bennitte	1		0.5	Υ
Waddy, Jude	1	2	0.5	N
Wadley, Shannon	1		0.5	Υ
Wagner, Keith	2		1	Υ
Walden, David	1		0.5	Υ
Walden, Willie	1		0.5	Υ
Waldron, Emmett	4		2	Υ
Walker, Bruce	2	1	1	N
Walker, Bryan	1		0.5	Υ
Walker, Corey	1	1	0.5	N
Walker, Demetrios	1		0.5	Υ
Walker, Jay	1	2	0.5	N
Walker, John	1		0.5	Υ
Walker, Wayne	1	1	0.5	N
Walker, Willie	1		0.5	Υ
Wallace, Anthony	1		0.5	Υ
Wallace, Butchie	1		0.5	Υ
Wallace, Jason	1		0.5	Υ
Wallace, Larry	2		1	Υ
Wallace, Mike	1		0.5	Υ
Walls, Gavin	1		0.5	Υ
Walls, Henry	1	1	0.5	N
Walsh, Pat	1		0.5	Υ
Walters, Matt	1	1	0.5	N
Walton, Tim	2		1	Υ
Ward, Chad	1		0.5	Υ
Ward, Chris	3	1	1.5	N
Ward, LaShaun	1	1	0.5	N
Ward, Phillip	1	2	0.5	N
Ware, Andre	1	4	0.5	N
Ware, Brad	1		0.5	Υ
Warne, Jim	1	1	0.5	N
Warner, Josh	1	1	0.5	N
Warren, Brent	1		0.5	Υ
Warren, Craig	1		0.5	Υ

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 29711/10/ate #ijed:008/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of		Played Only
Player	Europe Seasons	NFL Seasons	seasons beyond 5)	NFL Europe?
Warren, Jesse	3		1.5	Y
Washburn, Brady	1		0.5	Y
Washburn, Cliff	2		1	Y
Washington, Gerard	1		0.5	Y
Washington, John David	1		0.5	Υ
Washington, Keith	2		1	Y
Washington, Mark	1		0.5	Υ
Washington, Sean	1		0.5	Υ
Washington, T.J.	1		0.5	Y
Washington, Tavares	1	1	0.5	N
Washington, Terrell	1		0.5	Y
Washington, Thomas	1		0.5	Y
Washington, Vann	1		0.5	Υ
Waters, Jason	1		0.5	Υ
Waters, Melvin	1		0.5	Y
Watkins, James	1		0.5	Υ
Watkins, Mike	2		1	Y
Watkins, Tony	2		1	Y
Watson, Ken	1		0.5	Y
Watson, Tim	1	4	0.5	N
Watton, Chris	1		0.5	Υ
Watts, Daniel	3		1.5	Υ
Watts, Jason	2		1	Y
Weaver, Jarrell	1		0.5	Y
Webb, David	3		1.5	Y
Webster, Mike	1		0.5	Y
Wei, Gao	1		0.5	Y
Welch, Herb	1	6	0	N
Wells, Kent	1	1	0.5	N
Werdekker, Hans	1		0.5	Y
Wesley, Joe	1	2	0.5	N
West, Derek	1			
West, Marcus	1		0.5	
West, Ronnie	2			N
Westbrooks, David	1		0.5	
Westbrooks, Jerry	1		0.5	
Whalen, James	1		0.5	
Wheeler, Randy	1		0.5	
Wheeler, Stephon	1		0.5	
Whelihan, Tom	1		0.5	

CaSes#822014nd-000013m/ent: 0003110331165920-2 Pāġed 29811/10 at @ faġed 208/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of		Played Only
Player	Europe Seasons	NFL Seasons	seasons beyond 5)	NFL Europe?
White, Anthony	1		0.5	Υ
White, Brent	2		1	Υ
White, Derrick	1		0.5	Υ
White, Erik	1		0.5	Υ
White, Jamal	1		0.5	Υ
White, Jerard	1		0.5	Υ
White, Maurice	1		0.5	Υ
White, Robb	1	3	0.5	N
White, Russell	1	1	0.5	N
White, Stan	1		0.5	Y
White, Stylez	1	4	0.5	N
White, Ted	2		1	Y
Whitfield, Eric	1		0.5	Y
Whitman, Josh	1	1	0.5	N
Whitmore, Dennis	1		0.5	Υ
Whittaker, Huey	1		0.5	Y
Whittaker, Scott	2		1	Υ
Whittington, Daryl	1		0.5	Υ
Wickman, Ryland	1		0.5	Υ
Wiese, Brett	1		0.5	Υ
Wiggins, Lee	1		0.5	Υ
Wiggins, Paul	1	2	0.5	N
Wike, Todd	1		0.5	Υ
Wilbourn, Shawn	1		0.5	Υ
Wilburn, Terry	2		1	Υ
Wilder, Sam	1		0.5	Υ
Wilkerson, Eric	2	1	1	N
Wilkins, David	1	1	0.5	N
Wilkins, Greg	1		0.5	Υ
Wilkinson, Calvin	1		0.5	Υ
Wilkinson, Rafe	1		0.5	Υ
Williams, Albert	1	1	0.5	N
Williams, Aric	1		0.5	Y
Williams, Armon	1	1	0.5	N
Williams, Ben	1	2	0.5	N
Williams, Brad	1		0.5	Υ
Williams, Byron	2	3	1	N
Williams, Clarence	1	1	0.5	N
Williams, Clarence	1	1	0.5	N
Williams, Clay	2		1	Y

CaSes#8220142nd-020123m/ent: 00031/10331/65920-2 Pāġed 29911/10/ate #ijed:008/09/2019 Eligible Seasons Added by Credit for NFL Europe

Number of NFL Europe Seasons Number of NFL Europe Seasons Number of NFL Seasons (excluding seasons beyond 5) NFL Europe? NFL Seasons beyond 5) NFL S				Added Elicible	
Player Europe Seasons		Normalian of NIFI	Nivershaw of		Discord Only
Williams, Curtis 1 0.5 Y Williams, DeMario 2 1 Y Williams, Doug 1 2 0.5 N Williams, Gerald 1 0.5 Y Williams, Greg 2 1 Y Williams, John 1 2 0.5 N Williams, John 1 2 0.5 N Williams, Lorn 1 3 0.5 N Williams, Larry 1 0.5 Y Williams, Larry 1 0.5 Y Williams, Larry 1 1	Diamen				
Williams, Curtis 1 0.5 Y Williams, DeMario 2 1 Y Williams, Doug 1 2 0.5 N Williams, Gerald 1 0.5 Y Williams, Greg 2 1 Y Williams, James 2 1 Y Williams, James 2 1 Y Williams, Lon 1 2 0.5 N Williams, K.D. 1 3 0.5 N Williams, Kevin 2 1 1 N Williams, Laurace 1 1 0.5 N Williams, Lauren 1 0.5 Y Williams, Lauren 1 0.5 Y Williams, Marcus 1 1 0.5 Y Williams, Marcus 1 1 0.5 N Williams, Marcus 1 1 0.5 N Williams, Rorcus 1 1 0.5 N	•		NFL Seasons		
Williams, DeMario 2 1 Y Williams, Doug 1 2 0.5 N Williams, Gerald 1 0.5 Y Williams, Greg 2 1 Y Williams, James 2 1 Y Williams, James 2 1 Y Williams, John 1 2 0.5 N Williams, John 1 2 0.5 N Williams, John 1 2 0.5 N Williams, Lenn 1 0.5 N Williams, Kevin 1 1 0.5 N Williams, Lamray 1 1 0.5 N Y Williams, Larry 1 0.5 Y Y Williams, Larry 1 0.5 Y Y Williams, Larry 1 0.5 N Y Williams, Larry 1 0.5 N Y Williams, Larry 1 0.5 N Williams, Arary 1 1 <td< td=""><td>· · · · · · · · · · · · · · · · · · ·</td><td></td><td></td><td></td><td></td></td<>	· · · · · · · · · · · · · · · · · · ·				
Williams, Doug 1 2 0.5 N Williams, Gerald 1 0.5 Y Williams, Greg 2 1 Y Williams, John 1 2 0.5 N Williams, John 1 2 0.5 N Williams, Lon 1 3 0.5 N Williams, K.D. 1 3 0.5 N Williams, K.D. 1 3 0.5 N Williams, Kevin 2 1 1 N Williams, Laurer 1 0.5 N Williams, Lauren 1 0.5 Y Williams, Lauren 1 0.5 Y Williams, Marcus 1 0.5 N Williams, Lauren 1 1 0.5 N Williams, Marcus 1 0.5 N Williams, Racheny 1 1 0.5 N Williams, Rochens 1 0.5 N Williams, Rickey 2					
Williams, Gerald 1 0.5 Y Williams, Greg 2 1 Y Williams, James 2 1 Y Williams, James 2 1 Y Williams, James 2 1 1 Y Williams, Lon 1 3 0.5 N Williams, Kevin 2 1 1 N Williams, Lamanzer 1 1 0.5 N Williams, Lauren 1 0.5 Y Williams, Lenny 1 1 0.5 Y Williams, Marcus 1 1 0.5 N Williams, Marcus 1 1 0.5 N Williams, Rorus 1 1 0.5 N Williams, Rickey 2 1 Y Williams, Rodney 1 2 0.5 N Williams, Ronald 1 0.5 Y Williams, Ronald 1 0.5 Y Williams, Royd 1 0.5 Y Williams, Ste			2		
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			Added Fligible	
	Number of NEI	Niveshau of	Added Eligible	Diamed Only
Diaman	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Wilson, Harvey	2 2		1	Υ Υ
Wilson, Kannadia				
Wilson, Kennedy	1	1	0.5 0.5	Y N
Wilson, Sheddrick	1		0.5	N
Wilson, Ted	1			N
Wilson, Walter Wilson, Zach	2		0.5	Y
Winborne, Jamaine	1			N N
	1	1	0.5	N
Wing David	1		0.5	Y
Wing, David Wingrove, Ryan	1		0.5	Ϋ́Υ
Winkler, Ulrich	3		1.5	
Wischnewski, Patrick			0.5	Y
·	1 3	1		Y N
Wisdom, Terrence	1		1.5 0.5	Y
Wishom Jorran	1			Y N
Wishom, Jerron Witczak, Jason	2		0.5	Y
Witherspoon, Jovan	1		0.5	Y
Witkowski, Dean	1		0.5	Y
Witkowski, John	1		0.5	N
Wolf, Patrick	1		0.5	Y
Wolfolk, Kevin	2		0.5	Ϋ́
	2	1	1	N N
Wong, Joe Wong, Juan	2		1	Y
Wood, Joseph	1		0.5	Y
Woodbury, Tory	1			N
Woodfin, Zac	1		0.5	
Woods, Jerry	1			
Woods, Manley	1	2	0.5	
Woods, Rashaun	1	1		
Woods, Thomas	2		0.5	Y
Woods, Tony	2			N
Woodson, Shawn	1	T	0.5	Y
Woolfork, Ronnie	2		0.3	Y
Wooten, Al	1		0.5	Y
Word, Mark	1			
Wright, Claudius	3		1.5	
Wright, Darrell	2		1.5	
Wright, Keith	1		0.5	
Wright, Michael	3		1.5	
wrigiit, wiithaei	3		1.5	Y

CaSes#822014nd-02013m/ent: 003111331165920-2 Pāġed 301/11/1Date āġed 108/09/2019 Eligible Seasons Added by Credit for NFL Europe

			Added Eligible	
	Number of NFL	Number of	Seasons (excluding	Played Only
Player	Europe Seasons		seasons beyond 5)	NFL Europe?
Wright, Sylvester	1	2	0.5	N
Wright, T.C.	2		1	Υ
Wright, Thomas	1		0.5	Υ
Wright-Fair, Shaumbe	1		0.5	Υ
Wrobel, Brian	2		1	Υ
Wulff, Paul	2		1	Υ
Wyatt, Justin	1		0.5	Υ
Wyatt, Willie	1	1	0.5	N
Wyche, John	1		0.5	Υ
Wylie, Joey	1		0.5	Υ
Wyman, Devin	1	2	0.5	N
Yalei, Shen	1		0.5	Υ
Yamada, Shinzo	1		0.5	Υ
Yancy, Richard	8		4	Υ
Yniguez, Paul	1		0.5	Υ
Young, Alan	1		0.5	Υ
Young, Antwone	2		1	Υ
Young, Charlie	2		1	Υ
Young, Danny	1		0.5	Υ
Young, Donnie	1		0.5	Υ
Young, Glenn	1		0.5	Υ
Young, Sam	1		0.5	Υ
Young, Todd	1		0.5	Υ
Younger, Jordan	3		1.5	Υ
Yukhnovich, Artsem	1		0.5	Υ
Yuma, Eric	1		0.5	Υ
Yurkiewicz, Rich	2		1	Υ
Zagorski, Ben	1		0.5	Υ
Zatechka, Jon	2		1	Υ
Zeno, Lance	1	2	0.5	N
Ziemann, Chris	1		0.5	N
Zimmerman, Scott	1		0.5	Υ
Zitelli, Emmett	2		1	Υ
Zolman, Greg	1		0.5	Υ
Zumwalt, Rick	1		0.5	Υ
Total			2143	2302

Exhibit 12

Player	Birth Date	Death Date	Age	Max CTE Award (in thousands) Accounting for Age	Seasons Played	Eligible Seasons Offset	CTE Award (in thousands) Eligible Accounting for Age and Seasons Offset Eligible Seasons
Denton, Bob	7/24/1934	7/8/2014	79	160	5	%0	\$160.00
Venuto, Sam	11/2/1926	7/12/2014	87	7	1	%08-	\$10.00
Leiding, Jeff	10/28/1961	7/13/2014	52	2300	2	%09-	\$920.00
Morton, John	9/1/1929	7/19/2014	84	1 20	1	%08-	\$10.00
Walker, Mickey	10/14/1939	7/19/2014	74	009	5	%0	\$600.00
DiPierro, Ray	8/22/1926	7/20/2014	87	7 50	2	%09-	\$20.00
McNamara, Bob	8/12/1931	7/20/2014	82	50	2	%09-	\$20.00
Austin, Ocie	1/8/1947	7/22/2014	29	086	4	-20%	\$784.00
Newhouse, Robert	1/9/1950	7/22/2014	64	1200	12	%0	\$1,200.00
Sprinkle, Ed	9/3/1923	7/28/2014	06) 50	12	%0	\$50.00
Cox, James E. 'Jim'	9/6/1920	7/29/2014	93	3 50	1	%08-	\$10.00
Moss, Perry	8/4/1926	8/7/2014	88	3 50	1	%08-	\$10.00
Lloyd, Dave	11/9/1936	8/9/2014	77	160	12	%0	\$160.00
Daniels, Dave	4/5/1941	8/19/2014	73	9009	1	%08-	\$120.00
Ladygo, Pete	6/23/1925	8/22/2014	89	9 20	2	%09-	\$20.00
Castete, Jesse	9/3/1933	8/29/2014	80) 50	2	%09-	\$20.00
Holzer, Tom	8/2/1945	8/30/2014	69	086	1	%08-	\$196.00
Powell, Charlie	4/4/1932	9/1/2014	82	50	7	%0	\$50.00
Humphrey, Donnie	4/20/1961	9/2/2014	53	3 2300	3	-40%	\$1,380.00
McIntosh, Toddrick	1/22/1972	9/5/2014	42	4000	2	%09-	\$1,600.00
Rudnick, Tim	3/6/1952	9/7/2014	62	1200	1	%08-	\$240.00
Saidock, Tom	2/26/1930	9/7/2014	84	1 50	4	-20%	\$40.00
Gonsoulin, Goose	6/7/1938	9/8/2014	9/	160	∞	%0	\$160.00
Bironas, Rob	1/29/1978	9/20/2014	36	4000	6	%0	\$4,000.00
Bruckner, Les	4/16/1918	9/21/2014	96	5 50	1	%08-	\$10.00
Ross, Scott	12/7/1968	9/22/2014	45	3200	1	%08-	\$640.00
Manoukian, Don	6/9/1934	9/23/2014	80) 50	1	%08-	\$10.00

Data regarding birth date, death date, and age taken from www.oldestlivingprofootball.com. Data regarding number of seasons played taken from www.nfl.com.

Player	Birth Date	Death Date	Age	Max CTE Award (in thousands) Accounting for Age	Seasons Played	Eligible Seasons Offset	CTE Award (in thousands) Eligible Accounting for Age and Seasons Offset Eligible Seasons
Kincaid, Blackie	8/11/1930	9/25/2014	84	50	1	%08-	\$10.00
Boeke, Jim	9/11/1938	9/26/2014	9/	160	6	%0	\$160.00
Smith, Robert G. 'Bob'	2/23/1933	9/28/2014	81	50	2	%09-	\$20.00
Drungo, Elbert	4/30/1943	10/11/2014	71	009	6	%0	\$600.00
Jones, Aki	10/25/1982	10/12/2014	31	4000	1	%08-	\$800.00
Best, Art	3/18/1953	10/14/2014	61	1200	3	-40%	\$720.00
Steiner, Roy	8/27/1927	10/18/2014	87	50	2	%09-	\$20.00
Biodrowski, Dennis	6/27/1940	10/20/2014	74	009	5	%0	\$600.00
Bramlett, John	7/7/1941	10/23/2014	73	009	7	%0	\$600.00
Collins, Mo	9/22/1976	10/26/2014	38	4000	9	%0	\$4,000.00
Soltau, Gordy	1/25/1925	10/26/2014	89	50	6	%0	\$50.00
McLaughlin, Leon	5/30/1925	10/27/2014	89	50	5	%0	\$50.00
Bracken, Don	2/16/1962	10/30/2014	52	2300	8	%0	\$2,300.00
Natowich, Andy	12/11/1918	10/30/2014	95	50	1	%08-	\$10.00
Hendley, Dick	8/6/1926	10/31/2014	88	50	Т	%08-	\$10.00
Paul, Don	3/18/1925	11/8/2014	88	50	8	%0	\$50.00
Thomas, Orlando	10/21/1972	11/9/2014	42	4000	7	%0	\$4,000.00
Regner, Tom	4/19/1944	11/13/2014	70	009	9	%0	\$600.00
Epps, Bobby	3/25/1932	11/14/2014	82	50	3	-40%	\$30.00
Kelm, Larry	11/29/1964	11/22/2014	49	3200	7	%0	\$3,200.00
Brettschneider, Carl	12/2/1931	11/26/2014	82	50	8	%0	\$50.00
Fanucchi, Ledio	3/27/1931	11/27/2014	83	50	1	%08-	\$10.00
Yowarsky, Walt	5/10/1928	11/30/2014	98	50	9	%0	\$50.00
Swink, Jim	3/14/1936	12/3/2014	78	160	1	%08-	\$32.00
Flowers, Charlie	6/28/1937	12/7/2014	77	160	3	-40%	\$96.00
Behrman, Dave	11/9/1941	12/9/2014	73	009	3	-40%	\$360.00
Thurston, Fuzzy	12/29/1933	12/14/2014	80	50	10	%0	\$50.00

Data regarding birth date, death date, and age taken from www.oldestlivingprofootball.com. Data regarding number of seasons played taken from www.nfl.com.

Player	Birth Date	Death Date	Age	Max CTE Award (in thousands) Accounting for Age	Seasons Played	Eligible Seasons Offset	CTE Award (in thousands) Eligible Accounting for Age and Seasons Offset Eligible Seasons
Brown Jr., Boyd	5/24/1952	12/18/2014	62	1200	4	-20%	\$960.00
Kelly, Bob	8/18/1938	12/18/2014	9/	160	9	%0	\$160.00
Teteak, Deral	12/11/1929	12/18/2014	85	20	5	%0	\$50.00
Vereb, Ed	5/21/1934	12/18/2014	80	50	1	%08-	\$10.00
Alston, Mack	4/27/1947	12/24/2014	29	980	11	%0	\$980.00
Barry, Paul	8/7/1926	12/28/2014	88	50	4	-20%	\$40.00
Dyko, Chris	3/16/1966	12/28/2014	48	3200	1	%08-	\$640.00
Keating, Bill	11/22/1944	1/1/2015	70	009	2	%09-	\$240.00
Caldwell, Bryan	5/6/1960	1/3/2015	54	2300	1	%08-	\$460.00
Jessup, Bill	3/17/1929	1/3/2015	85	50	7	%0	\$50.00
Sherman, Allie	2/10/1923	1/3/2015	91	50	5	%0	\$50.00
Pugh, Jethro	7/3/1944	1/7/2015	70	009	14	%0	\$600.00
Karnofsky, Sonny	9/22/1922	1/9/2015	92	50	2	%09-	\$20.00
Cunningham, Doug	9/14/1945	1/13/2015	69	086	8	%0	\$980.00
Nagel, Ray	5/18/1927	1/15/2015	87	20	1	%08-	\$10.00
Henson, Gary	9/8/1940	1/20/2015	74	009	2	%09-	\$240.00
Roffler, Bill	9/16/1930	1/20/2015	84	50	1	%08-	\$10.00
Atkins, George	4/10/1932	1/21/2015	82	50	1	%08-	\$10.00
Mason, Tommy	7/8/1939	1/22/2015	75	160	11	%0	\$160.00
Pense, Leon	2/5/1922	1/22/2015	92	50	1	%08-	\$10.00
McKinnon, Don	8/28/1941	1/25/2015	73	009	2	%09-	\$240.00
Freitas, Jesse	9/10/1951	2/8/2015	63	1200	2	%09-	\$480.00
Enyart, Bill	4/28/1947	2/10/2015	29	086	3	-40%	\$588.00
Glick, Gary	5/14/1930	2/11/2015	84	50	7	%0	\$50.00
Towns, Bobby	3/17/1938	2/11/2015	9/	160	2	%09-	\$64.00
McCusker, Jim	5/13/1936	2/13/2015	78	160	7	%0	\$160.00
Davis, Jack O.	2/19/1933	2/15/2015	81	50	1	%08-	\$10.00

Data regarding birth date, death date, and age taken from www.oldestlivingprofootball.com. Data regarding number of seasons played taken from www.nfl.com.

Player	Birth Date	Death Date	Age	Max CTE Award (in thousands) Accounting for Age	Seasons Played	Eligible Seasons Offset	CTE Award (in thousands) Eligible Accounting for Age and Seasons Offset Eligible Seasons
Duncan, Clyde	2/5/1961	2/15/2015	54	2300	2	%09-	\$920.00
Lassiter, Ike	11/15/1940	2/15/2015	74	009	10	%0	\$600.00
Modzelewski, Ed	1/13/1929	2/27/2015	98	. 50	9	%0	\$50.00
Bettis, Tom	3/17/1933	2/28/2015	81	. 50	6	%0	\$50.00
Wilson, Jerry	12/9/1936	3/5/2015	78	160	2	%09-	\$64.00
Lewis, Dan	2/14/1936	3/6/2015	79	160	6	%0	\$160.00
Hensley, Dick	9/8/1927	3/7/2015	87	, 50	3	-40%	\$30.00
Toneff, Bob	6/23/1930	3/15/2015	84	. 50	12	%0	\$50.00
O'Malley, Joe	1/20/1932	3/20/2015	83	50	2	%09-	\$20.00
Kendrick, Vince	3/18/1952	3/21/2015	63	1200	2	%09-	\$480.00
McGill, Ralph	4/28/1950	3/21/2015	64	1200	∞	%0	\$1,200.00
Torgeson, Torgy	2/28/1929	3/23/2015	98	. 50	7	%0	\$50.00
Phillips, Jimmy 'Red'	2/5/1936	3/25/2015	79	160	10	%0	\$160.00
LeBaron, Eddie	1/7/1930	4/1/2015	85	50	11	%0	\$50.00
Smith Jr., J.D.	7/19/1931	4/1/2015	83	50	11	%0	\$50.00
Cathcart, Sam	7/7/1924	4/3/2015	06	50	3	-40%	\$30.00
Middleton, Terdell	4/8/1955	4/3/2015	59	1400	7	%0	\$1,400.00
Sumner, Charlie	10/19/1930	4/4/2015	84	1 50	9	%0	\$50.00
Wood, Dick	2/29/1936	4/4/2015	79	160	2	%0	\$160.00
Looney, Don	9/2/1916	4/5/2015	98	50	3	-40%	\$30.00
Papit, Johnny	7/25/1928	4/6/2015	86	50	3	-40%	\$30.00
Powell, Art	2/25/1937	4/6/2015	78	160	10	%0	\$160.00
Szaro, Rich	3/7/1948	4/8/2015	29	086	2	%0	\$980.00
Graves, Ray	12/31/1918	4/10/2015	96	. 50	3	-40%	\$30.00
Mutscheller, Jim	3/31/1930	4/10/2015	85	. 20	8	%0	\$50.00
Gunn, Jimmy	11/27/1948	4/11/2015	99	980	7	%0	\$980.00
Witucki, Cas 'Slug'	5/26/1928	4/19/2015	86	50	9	%0	\$50.00

Data regarding birth date, death date, and age taken from www.oldestlivingprofootball.com. Data regarding number of seasons played taken from www.nfl.com.

Player	Birth Date	Death Date	Age	Max CTE Award (in thousands) Accounting for Age	Seasons Played	Eligible Seasons Offset	CTE Award (in thousands) Eligible Accounting for Age and Seasons Offset Eligible Seasons
Buffone, Doug	6/27/1944	4/20/2015	70	009	14	%0	\$600.00
St. Clair, Bob	2/18/1931	4/20/2015	84	20	11	%0	\$50.00
Bednarik, Chuck	5/1/1925	3/21/2015	89	20	14	%0	\$50.00
					Average CTE Award:	Award:	\$421.00
					Value Added:	<u>.</u> .	\$44,626.00

Data regarding birth date, death date, and age taken from www.oldestlivingprofootball.com. Data regarding number of seasons played taken from www.nfl.com.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

CO-LEAD CLASS COUNSELS' PETITION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF COSTS AND EXPENSES, ADOPTION OF A SET-ASIDE OF FIVE PERCENT OF EACH MONETARY AWARD AND DERIVATIVE CLAIMANT AWARD, AND CASE CONTRIBUTION AWARDS TO CLASS REPRESENTATIVES

Co-Lead Class Counsel respectfully move, pursuant to Rule 23(h) of the Federal Rules of Civil Procedure and Section 21.1 of the Class Action Settlement Agreement, as amended (ECF No. 6481-1) ("Settlement") for the entry of an Order (i) awarding attorneys' fees and reimbursement of costs and litigation expenses for their work to date in this litigation; (ii) conferring upon Co-Lead Counsel Christopher A. Seeger the responsibility and discretion to make the allocation of the attorneys' fees and costs and expenses award among those Plaintiffs' Counsel seeking compensation for common benefit work and common benefit costs and expenses incurred; (iii)

adopting a set-aside of five percent of each Monetary Award and Derivative Claimant Award

under the Settlement, for the purpose of reimbursing counsel for future common benefit work

and expenses in connection with implementation of the Settlement; and (iv) making case

contribution (or incentive or service) awards to the three representatives of the settlement Class

(or, where appropriate, to their estates) for their invaluable contributions in connection with the

achievement of the Settlement.

The reasons supporting these requests are fully set forth in the accompanying memorandum

of law and the Declaration of Christopher A. Seeger, dated February 13, 2017, and exhibits thereto.

A proposed Order is submitted herewith.

Dated: February 13, 2017

Respectfully submitted,

s/ Christopher A. Seeger

Christopher A. Seeger

Seeger Weiss LLP

77 Water Street

New York, New York 10005

cseeger@seegerweiss.com

(T) 212-584-0700

(F) 212-584-0799

Co-Lead Class Counsel

Sol Weiss

ANAPOL WEISS

One Logan Square

130 N. 18th St. Ste. 1600

Philadelphia, PA 19103

(T) 215-735-1130

(F) 215-735-2024

sweiss@anapolweiss.com

Co-Lead Class Counsel

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JA6556

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on all counsel of record via the Court's ECF system on February 13, 2017.

s/ Christopher A. Seeger Christopher A. Seeger

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

MEMORANDUM OF LAW IN SUPPORT OF CO-LEAD CLASS COUNSELS'
PETITION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT
OF COSTS AND EXPENSES, ADOPTION OF A SET-ASIDE OF EACH
MONETARY AWARD AND DERIVATIVE CLAIMANT AWARD,
AND CASE CONTRIBUTION AWARDS FOR CLASS REPRESENTATIVES

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Alexander v. Washington Mut., Inc., No. 07-4426, 2012 WL 6021103 (E.D. Pa. Dec. 4, 2012)	44, 48
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Bradburn Parent Teacher Store, Inc. v. 3M, 513 F. Supp. 2d 322 (E.D. Pa. 2007)	44
Briggs v. PNC Fin. Servs. Grp., Inc., No. 1:15-CV-10447, 2016 WL 7018566 (N.D. III. Nov. 29, 2016)	65
Brotherton v. Cleveland, 141 F. Supp. 2d 907 (S.D. Ohio 2001)	69
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Dewey v. Volkswagen Aktiengesellschaft, 558 F. App'x 191 (3d Cir. 2014)	28
Duerson v. Nat'l Football League, 12-C-2513, 2012 WL 1658353 (N.D. Ill. May 11, 2012)	41

Esslinger v. HSBC Bank Nevada, N.A., No. 10-3213, 2012 WL 5866074 (E.D. Pa. Nov. 20, 2012)	48, 49
Gilchrist v. NFL, 137 S. Ct. 591 (2016)	25
Gunter v. Ridgewood Energy Corp., 223 F.3d 190 (3d Cir. 2000)	30
Hadix v. Johnson, 322 F.3d 895 (6th Cir. 2003)	65
Haught v. Summit Res., LLC, No. 1:15-cv-0069, 2016 WL 1301011 (M.D. Pa. Apr. 4, 2016)	48, 49
Hegab v. Family Dollar Stores, Inc., No. 11-1206, 2015 WL 1021130 (D.N.J. Mar. 9, 2015)	29, 39
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<i>In re AT & T Corp.</i> , 455 F.3d 160 (3d Cir. 2006)	36, 48, 53
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In re Fasteners Antitrust Litig., No. 08-MD-1912, 2014 WL 296954 (E.D. Pa. Jan. 27, 2014)	58
In re Flonase Antitrust Litig., 291 F.R.D. 93 (E.D. Pa. 2013)	43, 57, 58
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Mercedes Benz Tele Aid Contract Litig., 07-2720, 2011 WL 4020862 (D.N.J. Sept. 9, 2011)	55
Merck & Co., Inc. Vytorin Erisa Litig., 08-cv-285, 2010 WL 547613 (D.N.J. Feb. 9, 2010)	56
VASDAQ MktMakers Antitrust Litig., F.R.D. 465 (S.D.N.Y. 1998)	47
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VFL, F.3d 410 (3d Cir. 2016)	passim
Dil Spill by Oil Rig Deepwater Horizon in Gulf of Mexico, on Apr. 20,2010 F. Supp. 2d 891 (E.D. La. 2012)	
Dil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on Ap 2179, 2016 WL 6215974 (E.D. La., 2016)	
Plastic Tableware Antitrust Litig., 94-CV-3564, 1995 WL 723175 (E.D. Pa. Dec. 4, 1995)	68, 69
Priceline.com, Inc. Sec. Litig., No., 1884, 2007 WL 2115592 (D. Conn. July 20, 2007)	47
Processed Egg Prods. Antitrust Litig., L No. 2002, 2012 WL 5467530 (E.D. Pa. Nov. 9, 2012)	44
Protegen Sling and Vesica System Prods. Liab. Litig., L 1387, 2002 WL 31834446 (D. Md. Apr. 12, 2002)	60
Prudential Ins. Co. of Am. Sales Practice Litig. Agent Actions, F.3d 283 (3d Cir. 1998)	passim
Ravisent Techs., Inc. Sec. Litig., 1014, 2005 WL 906361 (E.D. Pa. Apr. 18, 2005)	44

In re Remeron Direct Purchaser Antitrust Litig., No. 03-0085, 2005 WL 3008808 (D.N.J. Nov. 9, 2005)	48
In re Rent-Way Secs. Litig., 305 F. Supp. 2d 491 (W.D. Pa. 2003)	44
In re Residential Doors Antitrust Litig., Nos. 93-3744, 96-2125, 1998 WL 151804 (E.D. Pa. Ap	r. 2, 1998)65
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In re Rite Aid Corp. Sec. Litig., 146 F. Supp. 2d 706 (E.D. Pa. 2001)	47
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In re Rite Aid Corp. Sec. Litig., 362 F. Supp. 2d 587 (E.D. Pa. 2005)	46
In re Royal Ahold N.V. Sec. & ERISA Litig., 461 F. Supp. 2d 383 (D. Md. 2006)	47
In re Safety Components, Inc. Sec. Litig., 166 F. Supp. 2d 72 (D.N.J. 2001)	54, 57
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In re Viropharma Inc. Sec. Litig., No. 12-2714, 2016 WL 304040 (E.D. Pa. Jan. 25, 2016)	58
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Ins. Brokerage Antitrust Litig., No. 04-5184, 2009 WL 411856 (D.N.J. Feb 17, 2009)	40
Interfaith Cmty. Org. v. Honeywell Int'l, Inc., 426 F.3d 694 (3d Cir. 2005)	54
Jackson v. Wells Fargo Bank, N.A., 136 F. Supp. 3d 687 (W.D. Pa. 2015)	28
King Drug Co. of Florence v. Cephalon, No. 06-cv-01797-MSP, 2015 WL 12843830 (E.D. Pa. Oct. 15, 2015)	46, 69
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Lazy Oil Co. v. Witco Corp., 95 F. Supp. 2d 290 (W.D. Pa. 1997)	45
Louisiana Mun. Police Employees Ret. Sys. v. Sealed Air Corp., No. 03-CV-4372 DMC, 2009 WL 4730185 (D.N.J. Dec. 4, 2009)	56
Lugus IP, LLC v. Volvo Car Corp., No., 12-2906, 2015 WL 1399175 (D.N.J. Mar. 26, 2015)	56
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McGee v. Continental Tire of N. Am., No. 066234, 2009 WL 539893 (D.N.J. Mar. 4, 2009)	40
Meijer, Inc. v. 3M, No. 04-5871, 2006 WL 2382718 (E.D. Pa. Aug. 14, 2006)	6, 38, 39, 44
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Mirakay v. Dakota Growers Pasta Co., No. 13-CV-4429 JAP, 2014 WL 5358987 (D.N.J. Oct. 20, 2014)	56
Moore v. GMAC Mortgage, No. 07-4296, 2014 WL 12538188 (E.D. Pa. Sept. 19, 2014)	28, 55, 56
O'Keefe v. Mercedes-Benz USA, LLC, 214 F.R.D. 266 (E.D. Pa. 2003)	28
Ratner v. Bennett, No. 92-4701, 1996 WL 243645 (E.D. Pa. May 8, 1996)	45
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Stagi v. Nat'l R.R. Passenger Corp., 880 F. Supp. 2d 564 (E.D. Pa. 2012)	38, 44
Stringer v. Nat'l Football League, 474 F. Supp. 2d 894 (S.D. Ohio 2007)	41
Sullivan v. DB Invs., Inc., No. 04-2819 SRC, 2008 WL 8747721 (D.N.J. May 22, 2008)	56
Tavares v. S-L Distrib. Co., 13-cv-1313, 2016 WL 1732179 (M.D. Pa. May 2, 2016)	49
Tenuto v. Transworld Sys., Inc., No. 99-4228, 2002 WI, 188569 (F.D. Pa, Ian, 31, 2002)	65

Tyco Int'l, Ltd. Multidist. Litig., 535 F. Supp. 2d 249 (D.N.H. 2007)	47
Welch & Forbes, Inc. v. Cendant Corp.(In re Cendant Corp. PRIDES Litig.) 243 F.3d 722 (3d Cir. 2001)	passim
Wellbutrin SR Antitrust Litig., No. 04-5525,2011 U.S. Dist. LEXIS 158833, (E.D. Pa. Nov. 21, 2011)	43,45 ,52
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29 U.S.C. § 185	10
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Annotated Manual for Complex Litigation, Fourth § 14.121 (rev. ed. 2016)	30
Litigating Mass Tort Cases § 7:35 (2010)	61
4 Newberg on Class Actions § 14:9 (4 th Ed. 2002)	30, 61

I. INTRODUCTION

On December 12, 2016, following years of hard-fought litigation, negotiation, and ultimately, numerous challenges on appeal, the United States Supreme Court denied further review of the historic and groundbreaking settlement negotiated by Plaintiffs' Counsel and approved by this Court. With the High Court's denial, the Settlement has become effective, and the program established thereunder is now poised to begin providing settlement benefits to the more than 20,000 Retired National Football League Players that comprise the Class.

With the Settlement now effective (and in anticipation thereof), Plaintiffs' Counsel has engaged in months of regular meetings with the Court-appointed Claims, Baseline Assessment Program ("BAP"), and Lien Resolution Administrators, and the NFL Parties to negotiate the documents and processes that will be used for registration, the BAP, and the claims process, and to further establish the independent Provider and Physician Networks that will provide diagnostic services for the Retired NFL Football Players. As a result, the BAP and claims process, the two cornerstones of the Settlement Agreement ("Settlement"), will be delivering benefits to Class Members shortly, now that registration has begun (as of February 6, 2017), and the program is expected to begin delivering benefits to Class Members in the next several months.

What is now recognized as a landmark settlement began over five years ago as a high-risk, long-odds litigation undertaken by Plaintiffs' Counsel on a wholly contingent basis. From the outset, Plaintiffs' Counsel committed substantial time, resources, and expertise in pursuit of recovery for retired NFL players and their families. *See* Decl. of Christopher A. Seeger in

In accordance with Sup. Ct. R. 44(2) & 45(2)-(3), the Supreme Court's disposition became final on January 6, 2016, upon the expiration of the time for filing a rehearing petition.

This term is employed as defined in the Settlement. *See* Settlement § 2.1(ffff) [ECF No. 6481-1, at 18].

Support of Co-Lead Class Counsel's Petition for an Award of Attorneys' Fees and Expenses, dated February 13, 2017 ("Seeger Decl.") ¶ 4. Indeed, over the course of those years, Plaintiffs' Counsel expended many thousands of hours of attorney and professional time, and incurred and advanced millions of dollars in expenses, for the benefit of the Class, to achieve and facilitate the Settlement that is now effective.

In that respect, the parties' Settlement, approved by the Court in April 2015, provides that "the NFL Parties shall pay class attorneys' fees and reasonable costs," and that "Class Counsel shall be entitled . . . to petition the Court on behalf of all entitled attorneys for an award of class attorneys' fees and reasonable costs." Settlement § 21.1 [ECF No. 6481-1, at 81-82]. The NFL Parties have agreed not to oppose or object to a petition seeking an award of class attorneys' fees and reasonable costs of up to \$112.5 million. *Id*.

With the Settlement now effective, through the instant application, Co-Lead Class Counsel Christopher A. Seeger of Seeger Weiss LLP, and Sol Weiss of Anapol Weiss ("Petitioners"), on behalf of Plaintiff's Counsel, 4 respectfully petition the Court for an award of attorneys' fees and reimbursement of costs and litigation expenses for their work to date in this litigation.

All page number references in this memorandum to documents filed on the Court's ECF system are to the ECF pagination rather than the pagination at the bottom of the original document.

[&]quot;Plaintiffs' Counsel" refers collectively to the lawyers and law firms that comprise the Plaintiffs' Executive Committee and the Plaintiffs' Steering Committee. The Court's Case Management Orders ("CMO") Nos. 2 and 3 [ECF Nos. 64, 72] appointed those firms to their respective positions. "Plaintiffs' Counsel" also includes the law firms that have done important common benefit work for the litigation, approved by Co-Lead Class Counsel, and are submitting declarations in support of this Petition.

In addition, as provided by section 21.1 of the Settlement, Plaintiffs' Counsel further requests the holdback of five percent of each Monetary Award and Derivative Claimant Award. The funds provided by such holdbacks are designed to support the substantial common benefit work that will be necessary over the 65-year life of the Settlement program, so as to ensure that Class Members receive the Monetary Awards or other benefits to which they are entitled. Plaintiffs' Counsel must accomplish numerous tasks in overseeing the implementation of the Settlement – including the administration of the Monetary Award Fund ("MAF") and BAP, as well as the appeals process – to ensure that the Settlement program is properly administered and provides appropriate benefits to all eligible Retired NFL Football Players and their family members. Given the 65-year duration of the MAF, Plaintiffs' Counsels' obligations with respect to the administration of the Settlement will continue for many years.

Lastly, Plaintiffs' Counsel requests Case Contribution Awards of \$100,000 for the Class Representatives. Subclass 1 representatives Corey Swinson⁶ and Shawn Wooden and Subclass 2 representative Kevin Turner⁷ all made invaluable contributions to the achievement of the Settlement, and are fully deserving of this incentive award.

Petitioners seek a total award of \$112.5 million. The request covers both attorneys' fees and reimbursement of costs and out-of-pocket expenses. The attorneys' fee request is \$106,817,220.62, which, as discussed in further detail below, represents about nine percent of

Should the Court approve the request for the set-aside, Plaintiffs' Counsel will submit a detailed plan for administering and allocating these funds. Seeger Decl. ¶ 119.

Corey Swinson passed away suddenly in September 2013. Therefore, Petitioners seek an incentive award to be paid to Plaintiff Swinson's estate. Seeger Decl. ¶ 122.

Kevin Turner passed away on March 24, 2016 due to Amyotrophic Lateral Sclerosis ("ALS"). Seeger Decl. ¶ 129. Accordingly, Petitioners seek an incentive award to be paid to Plaintiff Turner's estate.

the value of the benefits conferred on the Class and is well within the ranges accepted by courts within this Circuit. Petitioners' reimbursable out-of-pocket expenses are \$5,682,779.38. For lodestar cross-check purposes, the lodestar amassed by Plaintiffs' Counsel since the inception of this multidistrict litigation ("MDL") in connection with common benefit work is \$40,559,978.60. This Petition, together with the accompanying supporting declarations, sets forth the extensive work that was undertaken by all Plaintiffs' Counsel to obtain the extraordinary relief recovered for the Class. The requested fee is reasonable and appropriate, particularly given the complex subject matter of the case, the exceptional results achieved against daunting odds, the substantial litigation risks incurred by Plaintiffs' Counsel, and the overwhelmingly strong support for the Settlement from the Class following nearly unprecedented media attention and public scrutiny.

The requested award will be used to compensate the attorneys listed in this Petition only for common benefit work performed in this MDL to date. A number of law firms involved in this litigation were retained by individual Class Member clients. This petition does not include attorney time or expenses specific to their individual clients' cases.⁸

When compared with numerous fee awards granted in this District, the totality of the global fee request represents a relatively modest percentage of the recovery achieved under the Settlement. As demonstrated below, the fee award requested herein falls easily within acceptable limits established by the Third Circuit's attorneys' fees jurisprudence.

Co-Lead Class Counsel's firm, Seeger Weiss LLP, had been individually retained by a number of Class Members. Seeger Weiss has waived attorneys' fees and expenses from Class Members whom the firm represents on an individual basis, and will seek compensation solely from common benefit funds given that its work and expenditures have overwhelmingly focused on common benefit efforts. Seeger Decl. ¶ 98. Other firms, however, are asserting their rights to be compensated pursuant to their retainers for work done on behalf of their individual clients. *See* ECF Nos. 7071, 7073, 7075, 7085.

Finally, Plaintiffs' Counsel request that, as is frequently done in the case of class action common benefit fee awards, the discretion and responsibility to allocate the fees be entrusted to Co-Lead Class Counsel Christopher A. Seeger, who has exercised overall oversight and leadership of this litigation and thus has familiarity with the roles and contributions of participating Plaintiffs' Counsel. Seeger Decl. ¶ 99.

II. THE SETTLEMENT BENEFITS

The groundbreaking global resolution in this MDL was the result of many months of intense, hard-fought, arm's-length negotiations among the parties, encompassing collectively thousands of hours of professional time with substantial input from medical, actuarial, and other experts. Plaintiffs' Counsel fully brought to bear their abundant experience in complex litigation to conceive, structure, and gain approval of an agreement that will protect many thousands of Retired NFL Football Players and their families for decades. The Settlement resolves the claims of the more than 5,000 cases filed directly in or transferred to this MDL, as well as the claims of thousands of additional Retired Players against the NFL Parties for injunctive relief, medical monitoring, and compensation for the long-term neurocognitive and neuromuscular injuries and other losses suffered by them allegedly as a result of the Defendants' tortious conduct. Seeger Decl. ¶ 11.

The reach and relief offered by the Settlement is substantial and without easy comparison. Retired NFL Football Players who last played in the league long ago, and who have yet to develop a Qualifying Diagnosis, will receive full value for any ultimate qualifying claim – regardless of whether they commenced an underlying action. The novel resolution provided by the Settlement provides broad reach and protection to Retired NFL Football Players and their families.

Plaintiffs' Counsel negotiated to ensure that the Settlement created an uncapped MAF to provide much-needed relief to (i) seriously injured retired players with a "Qualifying Diagnosis" of Level 1.5 Neurocognitive Impairment (early dementia), Level 2 Neurocognitive Impairment (moderate dementia), Alzheimer's Disease, Parkinson's Disease, and/or ALS; (ii) the representatives of deceased players who received a Qualifying Diagnosis while living; and (iii) the representatives of certain players who died before Final Approval (April 22, 2015) and were diagnosed post-mortem with Chronic Traumatic Encephalopathy ("CTE"), and their families. In the event a players' condition worsens, he and his family will be able to seek additional payments. The MAF will be available for 65 years to ensure that even the youngest retired players will have an opportunity to receive these benefits should they become eligible. Importantly, in order to receive a Monetary Award, Class Members will *not* be required to prove that their injuries were caused by the NFL Parties, let alone concussions suffered during professional football play.

Significantly, the Settlement preserves Retired NFL Football Players' rights to pursue claims for worker's compensation and any and all medical and disability benefits under any applicable collective bargaining agreement, including the NFL's Neuro-Cognitive Disability Benefit. In addition, the Settlement ensures that the provision included in Article 65 of the current collective bargaining agreement ("CBA"), Section 2 – requiring that players execute a release of claims and covenant not to sue in order to be eligible for the NFL's Neuro-Cognitive Disability Benefit – will not be enforced or used against players in connection with the Settlement.

The Settlement also establishes a \$75 million BAP designed to determine the existence and extent of cognitive impairment in living Retired NFL Football Players. In the event that they

are found to suffer from moderate cognitive impairment ("Level 1 Neurocognitive Impairment"), they will be entitled to supplemental benefits in the form of medical treatment and/or evaluation, including counseling and pharmaceutical coverage. Another component of the Settlement is a \$10 million Education Fund to promote safety and injury prevention in football players, including youth football players, and to educate Retired NFL Players regarding the NFL's medical and disability benefits programs and initiatives.

The MAF and the BAP are highly innovative means to implement major objectives of the Settlement. These objectives are to provide the opportunity for Retired NFL Football Players to obtain diagnoses and compensation. The level of planning, research, and coordination required to establish two nationwide networks of board-certified, highly-qualified medical professionals is extremely high, and required a substantial amount of behind-the-scenes work by Plaintiffs' Counsel. Moreover, information gained through the BAP, combined with the Education Fund, has the potential to greatly improve the understanding, and treatment of head injuries generally, including football and other sports.

This Settlement received unprecedented publicity (and scrutiny) from the moment of its announcement. Considering the ubiquity of the news reports and associated public attention concerning the Settlement and the state-of-the-art class notice program, the reaction of the Class has been extremely favorable. Fewer than one percent of Class Members filed requests for exclusion, and over 12,000 potential Settlement beneficiaries and their counsel have signed up to receive further notices regarding the Settlement and claims process. Declaration of Orran L. Brown, Sr., in Support of Co-Lead Class Counsels' Petition for an Award of Attorneys' Fees and

The number of opt-outs continues to decrease. Nineteen Class Members who had opted out have, with the Settling Parties' agreement and the Court's approval, rescinded their decision and rejoined the Class. *See* ECF Nos. 7117-1 (¶¶ 5-6), 7119.

Expenses, dated Feb. 8, 2017 ("Brown Decl."), at 3-4. Since the registration period opened on February 6, 2017, the Settlement Claims Administrator has received over 6,100 registrants. Seeger Decl. ¶ 11. This high level of favorable response is remarkable.

Plaintiffs' Counsel expended a great deal of time, energy, and resources to defend this historic Settlement against challenges filed in this Court, the Third Circuit, and the Supreme Court by objectors who doggedly pursued their objections and appeals. Those relentless challenges threatened not only to undo the Settlement itself but also to irreversibly wreck any prospect of a class-wide resolution of the Plaintiffs' claims in this MDL. Until the Supreme Court declined consideration of the last of those misguided challenges, long-awaited relief could not begin flowing to Class Members. As the Court is aware from recent filings, including applications for approval of pre-registration and supplemental notice to Class Members, Plaintiffs' Counsel is currently taking the final steps antecedent to the launch of the Settlement program. *E.g.*, ECF Nos. 7104, 7115 (Orders approving amended pre-registration notice and Supplemental Class Notice); Seeger Decl. ¶¶ 107-18 (discussing initial and long-term implementation steps).

III. PROCEDURAL HISTORY

A. Initiation of NFL Players' Concussion Injury Litigation and Formation of the MDL

This MDL was established on January 31, 2012 when the Judicial Panel on Multidistrict Litigation ("JPML") centralized the actions filed against the NFL Parties and the Riddell Defendants by dozens of former NFL players and certain of their wives in this District for coordinated pretrial proceedings, pursuant to 28 U.S.C. § 1407. *See In re Nat'l Football League Players' Concussion Injury Litig.*, 842 F. Supp. 2d 1378 (J.P.M.L. 2012). The JPML found that these cases "share[d] factual issues arising from allegations against the NFL stemming from

injuries sustained while playing professional football, including damages resulting from the permanent long-term effects of concussions while playing professional football in the NFL" and that "centralization under Section 1407 in the Eastern District of Pennsylvania w[ould] serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation." *Id.* at 1379. By the time of argument on the Section 1407 centralization motion in January 2012, sixteen potentially related actions pending against the NFL Parties were before the JPML. *Id.* at 1378. Soon thereafter, 123 cases were directly filed in the MDL or removed from Pennsylvania state court to this Court, and the JPML transferred an additional 163 cases to the MDL. Seeger Decl. ¶ 13.

B. Early Proceedings in This Court

At the first MDL status conference on April 25, 2012, the Court selected Christopher A. Seeger of Seeger Weiss LLP as Plaintiffs' Co-Lead Counsel for the MDL proceedings, and requested that another co-lead counsel from a Philadelphia-based firm also be selected. CMO No. 2 [ECF No. 64]. Plaintiffs selected and the Court confirmed the appointment of Sol Weiss of Anapol Schwartz (now Anapol Weiss) as Co-Lead Counsel. CMO No. 3 [ECF No. 72]. Plaintiffs also created and the Court appointed a Plaintiffs' Executive Committee ("PEC") and a Plaintiffs' Steering Committee ("PSC") composed of several of the counsel for Plaintiffs in the cases pending before the Court. ECF Nos. 64, 72. The PEC included counsel who were ultimately also appointed as Class Counsel, Gene Locks and Steven C. Marks, and the PSC included those ultimately also appointed as Subclass Counsel, Arnold Levin and Dianne M. Nast. 10 Seeger Decl. ¶¶ 14-15.

The Court later appointed Class Counsel and Subclass Counsel, resulting in Messrs. Seeger's and Weiss' positions ultimately changing from Co-Lead Counsel to Co-Lead Class Counsel, in accordance with the Preliminary Approval Order, dated July 7, 2014 [ECF No. (Footnote continued . . .)

As part of its initial case management orders, the Court identified the NFL Parties' preemption defense under Section 301 of the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 185, as a threshold legal issue to be addressed before proceeding to the broader merits of Plaintiffs' claims. CMO No. 2 at 2-3; CMO No. 4 [ECF No. 98] ¶ 3. Accordingly, the Court stayed formal discovery, ECF No. 3384, and set a schedule for the filing of Plaintiffs' Master Administrative Complaints and for the NFL Parties to brief the threshold legal issue of whether Plaintiffs' claims were preempted by federal labor law. ECF No. 64.

Thereafter, Plaintiffs' Counsel conducted significant investigation and research in connection with the preparation of and filing of these complaints, preparing 50-state surveys on medical monitoring, preemption, tolling, and fraudulent concealment. Plaintiffs' Counsel also examined the worker's compensation laws of the fifty states during this time. Seeger Decl. ¶ 18. On June 7, 2012, Plaintiffs' Counsel filed a Master Administrative Long-Form Complaint, ECF No. 83, and a Master Administrative Class Action Complaint for Medical Monitoring, ECF No. 84. On July 17, 2012, Plaintiffs then filed an Amended Master Administrative Long-Form Complaint, ECF No. 2642. Seeger Decl. ¶¶ 16-17.

On August 30, 2012, the NFL Parties filed motions to dismiss the operative complaints on federal preemption grounds. ECF Nos. 3589, 3590. Plaintiffs' Counsel prepared and filed opposition papers to the motions, ECF Nos. 4130-34. The NFL Parties filed reply papers, ECF Nos. 4254-55, and Plaintiffs' sur-replies closed the briefing, ECF Nos. 4589, 4591. Mindful that the fate of the litigation hinged on the preemption motions, Plaintiffs' Counsel spent significant time analyzing, researching, drafting, and discussing their opposition to the NFL Parties'

^{6084].} These appointments were confirmed upon Final Approval on April 22, 2015 [ECF No. 6510].

motions.¹¹ Plaintiffs' Counsel also conducted several mooting sessions, which included leading academics and practitioners in the field, to prepare for oral argument. The Court heard oral argument on the motions on April 9, 2013. ECF Nos. 4737-38; Seeger Decl. ¶ 20.

Early in this high-profile litigation, Plaintiffs' Counsel conceived, organized, and directed a communications strategy, so as to ensure that the broader player community (and the public at large) was fully apprised of the factual, medical, and legal issues encompassed by Plaintiffs' claims and the litigation, and to counteract any misinformation from whatever source. *Id.* ¶ 33. Plaintiffs' Counsel worked closely with one another to implement the Plaintiffs' communications strategy, which involved consistent and committed efforts both before and after the Settlement was announced. *Id.*

At the outset of this litigation, the Court advised the Parties to explore the possibility of settlement. Consistent with that instruction, and with Plaintiffs' Counsels' fiduciary duties to zealously represent the interests of all Retired NFL Football Players and their families, Plaintiffs' Counsel carefully evaluated the potential to settle Plaintiffs' claims. *Id.* ¶ 21. Counsel took into consideration the significance and severity of the alleged injuries, the scientific and medical issues relative to causation and concussions, and the ability to achieve through settlement "full value" compensation for serious concussion-related injuries without trials and appeals. *Id.* Counsel also weighed the inherent delays and costs involved in protracted litigation where so

As discussed in further detail below, the NFL Parties had successfully employed the preemption defense in several member cases of this MDL, a fact the Court acknowledged in its opinion approving the Settlement. *See In re Nat'l Football League Players' Concussion Injury Litig.* ["*In re NFL*"], 307 F.R.D. 351, 391 (E.D. Pa. 2015) ("Other courts have accepted the NFL Parties' preemption arguments."). The Third Circuit also acknowledged this, stating that it "concur[ed] with the District Court that this factor weighed in favor of settlement because class members "face[d] stiff challenges surmounting the issues of preemption and causation." *In re NFL*, 821 F.3d 410, 439 (3d Cir. 2016).

many former players are extremely ill and dying, as well as the risks of litigation, including the array of potential defenses of the NFL Parties – particularly preemption, but also lack of causation, statutes of limitations, the statutory employer defense, and assumption of risk, among others. This evaluation involved the substantial abilities and committed efforts of Plaintiffs' legal and science teams. *Id.* ¶ 22.

Armed with a thorough assessment of the legal, factual, and scientific issues associated with Plaintiffs' claims, Plaintiffs' Counsel engaged the NFL Parties about the possibility of settlement. The parties thereafter commenced discussions regarding settlement structures and injury categories. 12 *Id.* ¶ 23.

C. Mediation

In early July 2013, in anticipation of its decision on the preemption motions, the Court "held an informal exploratory telephone conference with lead counsel [and directed the] parties, through their lead counsel, to engage in mediation to determine if consensual resolution [wa]s possible." ECF No. 5128. The Court appointed retired United States District Judge Layn R. Phillips as the mediator, and directed that Judge Phillips report back to the Court on or before September 3, 2013 as to the results of the mediation. *Id*.

Co-Lead Counsel formed a negotiating committee, consisting of Messrs. Seeger, Weiss, Levin, Locks, and Marks, and Ms. Nast (Mr. Levin and Ms. Nast being the respective counsel for the two Subclasses). Seeger Decl. ¶ 25; ECF Nos. 6423-3 ¶ 27, 6423-10 ¶¶ 5, 9, and 6423-11 ¶¶

The Court has commended the intense preparations undertaken by Plaintiffs' Counsel prior to mediation. "A genuine dialogue between zealous and well-prepared adversaries transpired." *In re NFL*, 307 F.R.D. at 363. As the Court stated, "[t]he Parties came prepared for these discussions. The Parties had already retained well-qualified medical experts to help determine the merits of the case. These experts advised the Parties on difficult questions such as the type of head trauma associated with NFL Football and the long term health effects of trauma on Retired Players." *Id*.

6, 9. Mindful of the teachings of *Amchem Products, Inc. v. Windsor*, 521 U.S. 591 (1997), and its progeny, Plaintiffs' Counsel ensured adequate and unconflicted representation for all Class Members and the creation of Subclasses and separate representation for those currently diagnosed with injuries associated with concussive and sub-concussive head trauma and those without such current ailments. Seeger Decl. ¶ 25; ECF Nos. 6073-4 ¶¶ 7, 11; 6423-3 ¶¶ 11-12, 29; 6423-6 ¶ 7.

Plaintiffs' Counsel further investigated and analyzed the claims brought in the Complaints (including the creation and maintenance of a comprehensive database of the Plaintiffs' claims and symptoms collected from over 2,000 Retired NFL Players); retained medical and economic experts; became well-versed in the relevant medical literature ¹³ and related issues; and, having completed extensive briefing on the NFL Parties' preemption motions to dismiss, achieved a thorough appreciation of the merits of the threshold preemption arguments. Seeger Decl. ¶ 26; ECF No. 6423-3 ¶¶ 19-22, 25, 30, 32.

As part of Plaintiffs' Counsels' due diligence and consistent with their fiduciary responsibilities to the Class and Subclasses, Plaintiffs' Counsel engaged multiple experts in the fields of medicine, namely neurology, neuropsychology, and neuropsychiatry; actuarial science; economics; claims administration; and lien identification and satisfaction, all to determine, develop, and test an appropriate settlement framework to evaluate and meet the needs of Retired NFL Football Players suffering from or at increased risk for the claimed injuries related to

Plaintiffs' Counsel and their experts conducted a comprehensive review of peer-reviewed medical literature to support settlement discussion and negotiations. With expert guidance, Plaintiffs' Counsel canvassed the peer-reviewed medical and scientific literature on, *inter alia*, brain injury, concussions, the effect of sub-concussive hits to the head on the brain, the epidemiology of the Qualifying Diagnoses, and the methods of diagnosis and treatment for the Qualifying Diagnoses. Seeger Decl. ¶ 29.

concussions and mild traumatic brain injury. Seeger Decl. ¶ 27; ECF Nos. 6423-3 ¶¶ 32, 43; 6423-17 ¶¶ 6-9; 6423-18 ¶ 21; 6423-19 ¶¶ 19, 25, 27. The economists and actuaries assisted Plaintiffs' Counsel in modeling the possible disease incidence and adequacy of funding for the monetary award levels contained in the Settlement. Seeger Decl. ¶ 27; ECF No. 6423-3 ¶ 30.

Plaintiffs' Counsel expended significant time, effort, and funding in preparation for, and during, the settlement discussions, which began in earnest in January 2013, and continued through the mediation process. For almost two months during the mediation process, the Plaintiffs' negotiating team worked at an intense and grueling pace, collectively expending thousands of professional hours and often working around the clock to negotiate a fair and reasonable class settlement on behalf of all retired NFL players, their representative claimants, and derivative claimants. Seeger Decl. ¶¶ 28-30.

Plaintiffs' Counsel, as well as Plaintiffs' experts, were greatly aided in their understanding of Retired NFL Players' head injuries, and the incidence of neurocognitive ailments, through the creation of the Retired NFL Player database. *Id.* ¶¶ 31-32. Analyzing the records of over 2,000 players, Plaintiffs' Counsel created, in essence, an epidemiological study of their clients. *Id.* This database required extensive professional work. The database was vitally important to the entire negotiation process, because it enabled Plaintiffs' Counsel to evaluate disease incidence and occurrence across the retired NFL player population, and appropriately model and negotiate settlement benefits. *Id.* It also served as a cross-check of the epidemiology of neurocognitive disease suffered by retired NFL players. *Id.*

Judge Phillips actively supervised numerous mediation sessions, presiding over dozens of in-person and telephonic meetings with counsel for both sides, either jointly or in separate groups. *Id.* \P 34. He also met with the parties' respective experts, without counsel present, to

obtain answers to questions he had regarding the scientific, actuarial, and financial aspects of the settlement. *Id.*; ECF No. 6073-4 (Phillips Decl.) ¶¶ 2 & 5-7; ECF No. 6423-6 ¶ 4. The mediation process culminated in the execution of a Term Sheet on August 29, 2013.

As the Court noted, during their initial negotiations, the Parties did not discuss fees until after the key terms of the settlement – including the total size of the original capped fund – were publicly announced on the docket. *In re NFL*, 307 F.R.D. at 374 ("According to [Judge] Phillips, the Parties were careful not to discuss fees until after the Court had announced, on the record, an agreement regarding the total compensation for Class Members."); *see* Phillips Supp. Decl. ¶¶ 18-19 [ECF No. 6423-6, at 9]; ECF No. 5235.¹⁴

D. Public Announcement of the Proposed Settlement and Further Negotiations

On August 29, 2013, the Court announced that "in accordance with the reporting requirements in [its] order of July 8, 2013, the Honorable Layn Phillips, the court-appointed mediator, [had] informed [the Court] that the plaintiffs and the NFL defendants had signed a Term Sheet incorporating the principal terms of a settlement." ECF No. 5235. In its Order, the Court reserved judgment on the fairness and adequacy of the settlement pending the Settling Parties' presentation to the Court of a settlement agreement, along with motions for preliminary and, eventually, final approval. *Id*.

Following the announcement of the August 29, 2013 term sheet, the parties proceeded to negotiate the detailed terms of the settlement agreement itself. Plaintiffs' Counsel conducted numerous meetings with the NFL, continued to work with their consultants, and spent significant

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As the Court further stated, "[b]ecause Class benefits were fixed by the time the Parties discussed fees, the amount given to the Class was not compromised." *In re NFL*, 307 F.R.D. at 374 (citing cases).

time researching an appropriate settlement claims process, to include appeal rights. See ECF Nos. 6423-3 ¶ 34, 6423-6 ¶¶ 2, 4.

On January 6, 2014 – after over four months of additional, extensive, and often grueling negotiations – Co-Lead Class Counsel completed negotiation of the settlement agreement and submitted a motion for preliminary approval of a class action settlement incorporating the terms of the settlement agreement. Seeger Decl. ¶ 39; ECF No. 5634-5. This settlement agreement limited the funding of the MAF to \$675 million, which the parties and their actuarial and economic experts believed would be sufficient to pay all benefits throughout the 65-year term of the proposed settlement. Class Action Settlement Agreement [ECF No. 5634-2] § 23.1 (Jan. 6, 2014); Report of Analysis Research Planning Corp. to Special Master Perry Golkin [ECF No. 6168] ¶¶ 19-20. Also on January 6, 2014, Co-Lead Class Counsel, Class Counsel, and Subclass Counsel filed the class action complaint in *Turner v. NFL*, No. 14-cv-00029-AB (E.D. Pa.), naming Plaintiffs Kevin Turner and Shawn Wooden as proposed Class Representatives. Seeger Decl. ¶ 40; ECF No. 5634.

E. Court Appointment of Special Master Perry Golkin

On December 16, 2013, pursuant to Fed. R. Civ. P. 53, the Court appointed Perry Golkin to serve as Special Master to assist the Court in evaluating the financial aspects of the proposed settlement in view of its financial complexities. Seeger Decl. ¶ 38.

F. Initial Preliminary Class Certification Motion and Decision

Plaintiffs' Counsel researched, briefed, and filed their initial motion for preliminary approval of the settlement and certification of a settlement class on January 6, 2014. ECF No. 5634. This motion consisted of the negotiated settlement agreement; multiple supporting declarations from Class Counsel, Subclass Counsel, and player representatives; and extensive

briefing. On January 14, 2014, the Court denied the motion without prejudice. ECF No. 5657. The Court praised the "commendable effort" of the parties to reach the negotiated class action settlement, but expressed concern as to the adequacy of the proposed \$675 million MAF, in light of the 65-year lifespan of the MAF, the settlement class size of more than 20,000 members, and the potential magnitude of the awards. Seeger Decl. ¶ 41. The Court directed the parties to share the documentation described in their submissions with the Special Master. *Id.*; ECF No. 5658.

G. Renegotiations and Preliminary Approval

Guided by the Court's Memorandum Opinion and the Special Master, the parties worked nearly around the clock from January to June 2014 to provide the Court with the assurance that "all Retired NFL Football Players who ultimately receive a Qualifying Diagnosis or their related claimants will be paid." Seeger Decl. ¶ 42; ECF No. 5657 at 10. The parties and their actuarial and economic experts met separately with Special Master Golkin and with one another to further analyze the data and to determine whether, and if so, in what manner, the settlement could be amended that would be acceptable to the parties while at the same time satisfying the Court's concerns. Seeger Decl. ¶ 42. Notably, Plaintiffs' Counsel refined and tightened definitions of key terms in the Settlement, and improved claim procedures in order to protect against fraud. 15

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The concerns about fraud and abuse were not idle. Aside from these concerns being overriding to the NFL Parties were the MAF to be uncapped, Plaintiffs' Counsel was fully aware of the need to ensure the integrity of the Settlement's claims process. In *In re Diet Drugs*, a settlement in this District that contained a testing component, the Court was faced with a motion "to disqualify all 60,000 echocardiograms conducted by a company known as EchoMotion from supporting claims for matrix benefits on the grounds that these echocardiograms were not 'conducted under the supervision' of a Board-Certified Cardiologist as required by § VI.C.1.b(4) of the Settlement Agreement." Whether "the individuals performing these echocardiograms were properly supervised by cardiologists and whether these echocardiograms therefore should be disregarded in determining benefits [became] a major controversy before the court." Questions regarding the echocardiograms "generated many hotly contested issues and substantial motion practice" which "unduly delayed the payment of valid claims." *In re Diet Drugs Prods. Liab. Litig.*, 226 F.R.D. 498, 507-08 (E.D. Pa. 2005).

These changes were the result of significant analysis, coordination, and research, and required many hundreds of attorney hours to accomplish. Id. ¶ 43. These further analyses led to an uncapping of the deal and a revised settlement agreement. Id.

Under the revised agreement, the NFL Parties were to pay all valid claims for the next 65 years, and the MAF was no longer fixed at \$675 million. *Id.* ¶ 44. The NFL Parties became responsible for providing all of the funding for the MAF, BAP, and Education Fund, as well as paying, either directly or through their funding of the MAF or the BAP, for Class Notice costs, class attorneys' fees, and the fees and expenses of the Special Master, Claims Administrator, and BAP Administrator, as well as certain fees of the Lien Resolution Administrator. *Id.* During this additional five-month negotiation, Plaintiffs' Counsel was assisted by Special Master Golkin, numerous medical experts, and actuaries and economists. *Id.* ¶ 45. Plaintiffs' Counsel modified the settlement documents to reflect these new features and prepared new briefing to support approval of the revised agreement. *Id.*

On June 25, 2014, Plaintiffs' Counsel filed a motion for preliminary approval of the revised proposed settlement agreement and for preliminary class certification. ECF No. 6073. On July 7, 2014, the Court granted preliminary certification and approval of the settlement, ECF Nos. 6083-84, and on July 9, 2014, approved the notice to be disseminated to putative Class Members, ECF No. 6093. Seeger Decl. ¶ 46. Plaintiffs' Counsel established and supervised the set-up of the informational website "www.NFLconcussionsettlement.com," which has provided invaluable information to Class Members and has allowed the Claims Administrator to refine the data in its Class Member database, improving its ability to provide information to the Class. *Id.* ¶ 47.

The Settlement website has been a tremendous source of information for Retired NFL Players and family members. As of February 6, 2017, it had already received over 180,000 unique visits; it provides access to the Settlement Agreement, the Court-approved notices, the Court's Orders and frequently asked questions, among other documents and information. Brown Decl. at 2. The Claims Administrator's other efforts to provide accurate information to Class Members, coordinated with Plaintiffs' Counsel, have been equally successful. The Claims Administrator has received over 1,000 written communications and responded to those that asked questions about the Settlement. *Id.* The Settlement Call Center has received over 14,000 calls with well over 7,000 of these callers speaking directly to live operators, for a combined total of nearly 500 hours. *Id.* at 3.

Starting after the Court granted preliminary approval to the Settlement, and continuing to the present, Co-Lead Counsel, as well as other Plaintiffs' Counsel, have devoted hundreds of hours to communicating with Retired NFL Players and family members concerning the Settlement. Seeger Decl. ¶ 51. Co-Lead Class Counsel has conducted multiple seminars and presentations with Retired NFL Player groups throughout the country, including presentations at the Super Bowl and the Pro Football Hall of Fame. *Id.* These well-attended sessions have educated Retired NFL Players about the Settlement's benefits and procedures, and have been a valuable and effective means of spreading information about the Settlement. *Id.* ¶ 52. Co-Lead Class Counsel also hosted a series of webinars, with the same goal of increasing awareness of the Settlement. Co-Lead Class Counsel also hosts frequent telephone conference calls with Retired NFL Players and family members to provide updates on the Settlement. *Id.*

H. First Appeal and Multiple Briefings

After preliminary approval, Plaintiffs' Counsel dealt with a wide array of motions and attempted interlocutory appeals by certain objectors. *Id.* ¶ 53. A group of objectors, represented

by Steven F. Molo of MoloLamken LLP, filed a petition for interlocutory review with the Third Circuit, arguing that immediate review of the Court's preliminary approval was appropriate under Federal Rule of Civil Procedure 23(f) because of the Court's provisional certification of a settlement class. *Id.* Those objectors protested the fairness of the proposed settlement and challenged the preliminary class certification. They maintained that Rule 23(f) allowed immediate appellate review even though there had been no final ruling on class certification. *Id.*

Plaintiffs' Counsel and the NFL Parties both filed opposition papers to the 23(f) petition and, after requesting a reply brief from the objectors represented by Mr. Molo, the Third Circuit heard oral argument on September 10, 2014. *Id.* ¶ 54. The Court of Appeals denied the petition the next day in a one-page order. ECF No. 6166. The Court subsequently issued a written opinion explaining its ruling, *see In re NFL*, 775 F.3d 570 (3d Cir. 2014). The majority held that the Third Circuit lacked appellate jurisdiction under Rule 23(f) because this Court had "yet to issue 'an order granting or denying class certification." *Id.* at 588-89.

In addition to this unsuccessful 23(f) attack, six other Class Members, led by Roy Green and represented by three Missouri-based law firms, mounted their own challenge, filing an appeal to the Third Circuit by invoking appellate jurisdiction under 28 U.S.C. § 1292(a)(1), on the reasoning that this Court's Preliminary Approval Order had enjoined Class Members' prosecution of litigation against the NFL Parties and was therefore an interlocutory order granting an injunction. Seeger Decl. ¶ 55. Following the completion of briefing of that appeal, Class Plaintiffs successfully moved to dismiss it as moot because, in the meantime, the

Judge Ambro dissented from that jurisdictional rationale but nonetheless concurred that the petition should be denied because the Molo-led objectors were creating "inefficient (indeed, chaotic) piecemeal litigation that would interfere with the formal fairness hearing on the settlement." *Id.* at 589.

appellants had opted out of the settlement class and were hence no longer Class Members subject to any injunction. *See In re NFL*, No. 14-3520 (3d Cir. June 4, 2015) (Order dismissing appeal).

In addition to fending off these interlocutory appellate attacks, Plaintiffs' Counsel handled a myriad of other motions during this time, all in an effort to expedite the process and begin implementation of the Settlement. Seeger Decl. ¶ 56. These included third-party intervention motions seeking access to documents¹⁷; Class Member bids to take discovery of Class Counsel as to how the Settlement was negotiated or requests to obtain additional information about the Settlement¹⁸; motions to intervene¹⁹; motions seeking to extend the opt-out deadline²⁰; requests for *amicus curiae* participation in the Rule 23(e) fairness proceedings²¹; and a motion to prevent improper communication with Class Members.²²

I. Fairness Hearing

The Court received all timely objections to the Settlement by October 14, 2014. On November 12, 2014, Plaintiffs' Counsel filed their brief and extensive exhibits in support of final approval. ECF No. 6423. Plaintiffs' thorough briefing addressed objections by approximately

ECF No. 6101 (July 24, 2014) (Am. Mot. to Intervene to Seek Access to Docs. and Inform., filed by Bloomberg L.P., ESPN, Inc.).

ECF No. 6155 (July 31, 2014) (Mot. to Permit Access to Med., Actuarial, and Econ. Info. Used to Support the Settlement Proposal); ECF No. 6169 (Morey Plaintiffs' motion for leave to take "limited discovery").

ECF No. 6131 (Aug. 13, 2014) (Mot. to Intervene, filed by Richard Dent).

ECF No. 6172 (Sept. 19, 2014) (Emergency Mot. to Modify or Amend the July 7, 2014 Order Requiring Opt-Outs on or before Oct. 14, 2014).

ECF No. 6180 (Sept. 30, 2014) (Mot. for Leave to File *Amicus Curiae* Brief in opposition to final approval of the settlement, filed by Brain Injury Ass'n of Am.); ECF No. 6214 (Oct. 14, 2014 (Mot. for Leave to File *Amicus Curiae* Mem., filed by Pub. Citizen).

ECF No. 6257 (Oct. 24, 2014) (Motion for Order Prohibiting Improper Communications with the Class by MoloLamken LLP, filed by Mr. Seeger).

200 represented and pro se objectors, and fully described the Settlement. Seeger Decl. ¶ 57. Plaintiffs' Counsel prepared the Class's motion for final approval of the Settlement, as well as the supporting memorandum of law. They coordinated extensively with the Settlement's administrative support providers in securing the latter's declarations in support of the final approval motion. *Id.* These included Katherine Kinsella, for the notice plan; the Garretson Firm, for lien administration; and BrownGreer, for claims administration. Plaintiffs' Counsel also continued their work with several medical and other experts – including Drs. Kenneth C. Fischer (neurology), Christopher C. Giza (neurology and neurosurgery), David Hovda (neurosurgery and brain injury), Richard Hamilton (sports concussions), and John Keilp (neuropsychology) – and submitted declarations regarding the science on various points raised by objectors. *Id.* ¶¶ 59-60; *see also* ECF Nos. 6423-17 to 6423-20, 6423-23.

The Court held an all-day Fairness Hearing, pursuant to Rule 23(e)(2), on November 19, 2014. *See* Fairness Hr'g Tr., Nov. 19, 2014 [ECF No. 6463]. At that hearing, the Court heard from fourteen counsel for the various objector groups and the Settling Parties, and from five

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Although he did not submit a declaration for Plaintiffs' final approval papers, Dr. Grant Iverson also worked extensively with Plaintiffs' Counsel. Seeger Decl. ¶ 61. Dr. Iverson is a professor at Harvard Medical School in the Department of Physical Medicine and Rehabilitation. He is a specialist in neuropsychology and a clinician scientist in the area of mild traumatic brain injury and mental health. He has an internationally-recognized research program concerning outcomes from mild traumatic brain injury suffered by athletes, civilians, military service members, and veterans. His work was instrumental in designing the BAP testing program. The work of Plaintiffs' expert Thomas Vasquez was also integral in modelling the economics of the proposed settlement during negotiations, based on financial and epidemiological principles. Dr. Vasquez is the Vice President of Analysis Research Planning Corporation and has over 35 years of experience in management consulting for private sector clients, and the development of economic models for the U.S. and foreign governments to analyze and develop tax, expenditure, and regulatory policy. His analysis assisted in developing a monetary award grid that could be used in negotiating claims and modeling the total cost of resolving all pending and future claims by former NFL players. Seeger Decl. ¶ 60; ECF No. 6423-21.

unrepresented objectors. ECF No. 6463 *passim*. Plaintiffs' Counsel prepared the comprehensive presentation for the Court for the Fairness Hearing, and Mr. Seeger and his partner, David Buchanan, presented on behalf of the Settling Plaintiffs. Seeger Decl. ¶ 58.

J. Post-Hearing Briefing and Court-Proposed Modifications to the Settlement

The Court permitted post-hearing briefing to address certain issues and to afford objectors additional time to file a response to Plaintiffs Counsels' final approval motion papers. *See* ECF Nos. 6444, 6453-56. In December 2014, Plaintiffs' Counsel filed their reply to the objectors' post-hearing submissions. ECF No. 6467.

On February 2, 2015, the Court "proposed several changes to the Settlement that would benefit Class Members." Seeger Decl. ¶ 63; ECF No. 6479. These were: (1) providing some "Eligible Season" credit for play in NFL Europe; (2) assuring that despite the \$75 million cap on the BAP, all those timely registering will receive a baseline assessment examination; (3) moving the deadline for a "Death with CTE" award from the preliminary settlement approval date to the final approval date; (4) allowing for a waiver of the fee for appealing Monetary Award and Derivative Claimant Award determinations for those showing financial hardship; and (5) providing the opportunity to demonstrate a Qualifying Diagnosis without the required medical documentation in instances where such documentation was destroyed by a *force majeure* type event. Seeger Decl. ¶ 63.

After a new round of negotiations, Plaintiffs' Counsel secured agreement on every change that the Court suggested, and on February 13, 2015, the parties submitted a revised settlement agreement, which is the operative Settlement that the Court approved and is now effective in the wake of the Supreme Court's denial of *certiorari*. Seeger Decl. ¶ 64; ECF No. 6481-1. In connection with such approval, Plaintiffs' Counsel also prepared extensive proposed findings of fact and conclusions of law. ECF No. 6497.

K. Final Approval and Third Circuit Appeal

On April 22, 2015, the Court granted final approval to the Settlement (and final class certification). ECF Nos. 6509-10. The Court's published 132-page opinion exhaustively addressed class certification; the fairness, adequacy, and reasonableness of the Settlement; and, of course, the myriad arguments raised by the objectors. The Court issued an Amended Final Order and Judgment on May 8, 2015. ECF No. 6534.

On May 13, 2015, the first of several notices of appeal from the Court's grant of final approval was filed. ECF No. 6539. Ultimately, objectors filed eleven separate briefs in connection with the appeals from the Court's final approval decision. Seeger Decl. ¶ 67. The appeals were briefed in tandem and consolidated for argument and decision by the Third Circuit. *Id.* After receiving the objectors' briefs and those of the two *amici curiae* opposed to the Settlement (the Brain Injury Association of America ["BIAA"] and Public Citizen, who had also appeared in this Court as *amici curiae*), Plaintiffs' Counsel devoted extensive hours to analyzing the various briefs and researching and drafting their answering brief. *Id.* Also, Plaintiffs' Counsel prepared for and presented at the Third Circuit oral argument, which was held on November 19, 2015. *Id.*

On April 18, 2016, the Third Circuit issued a published opinion unanimously affirming this Court in all respects. *In re NFL*, 821 F.3d 410 (3d Cir. 2016). Certain objectors then filed petitions for *en banc* rehearing. The Third Circuit denied those petitions on June 1, 2016, and issued its mandate on June 9, 2016. ECF No. 6840.

L. Petitions for Writ of Certiorari

Following the Third Circuit's denial of *en banc* rehearing, two groups of objectors filed petitions for writ of *certiorari* with the United States Supreme Court. *See Gilchrist v. Nat'l Football League*, No. 16-283 (U.S. filed Aug. 30, 2016); *Armstrong v. Nat'l Football League*,

No. 16-413 (U.S. filed Sept. 26, 2016). The same two *amici curiae* who had opposed the Settlement in both this Court and the Third Circuit (BIAA and Public Citizen) filed briefs in support of the *certiorari* petitions. Plaintiffs' Counsel prepared and filed their brief in opposition to the petitions and *amici* briefs on November 4, 2016. Seeger Decl. ¶ 69. On December 12, 2016, the Supreme Court denied both petitions. *Gilchrist v. NFL*, 137 S. Ct. 591 (2016); *Armstrong v. NFL*, 137 S. Ct. 607 (2016). In accordance with Supreme Court Rules 44(2) & 45(2)-(3), the Supreme Court's disposition became final on January 6, 2016, upon the expiration of the time for filing a rehearing petition. Seeger Decl. ¶ 69; Sup. Ct. R. 44(2) & 45(2)-(3).

M. Initial Settlement Implementation Efforts

Meanwhile, even before the Supreme Court's rejection of the two *certiorari* petitions, Plaintiffs' Counsel began the groundwork for the implementation of the Settlement. Since April 2016, Plaintiffs' Counsel has had regular working calls with Claims Administrator BrownGreer PLC and Lien Administrator Garretson Resolution Group, Inc. to review work plans, draft materials, and settlement implementation issues. *Id.* ¶ 108. Plaintiffs' Counsel have finalized retention of administrators and special masters; the Settlement Trust Agreement; and prepared conflicts of interest plans. *Id.* ¶ 109.

Moreover, Plaintiffs' Counsel finalized and the Court has approved [ECF Nos. 7107, 7115] Preregistration and Supplemental Class Notices to be disseminated to Class Members to advise them concerning the registration and benefits timetable, and Plaintiffs' Counsel will oversee the effectuation of registration forms, the transition of call center operations to the Claims Administrator, and ongoing revisions of the Settlement website (including FAQs). Seeger Decl. ¶ 109.

Other implementation efforts are in connection with the upcoming June 6, 2017 launch of the BAP. These include reviewing the applications of BAP Providers and vetting candidates for

retention, receiving reports on contracting with providers in order to establish networks convenient to a majority of players by metropolitan region, and finalizing BAP procedures (including assessment scheduling and Supplemental Benefits). *Id.* ¶¶ 108, 110. Still other work has pertained or will pertain to the MAF (whose claims platform for pre-Effective Date Qualifying Diagnoses opens on March 23, 2017; Retired NFL Football Players will contact MAF physicians on their own from the MAF Network that will open on April 7th): the review of applications of MAF Physicians and vetting candidates for retention, finalizing claims forms and processes, and finalizing appeals forms and processes. *Id.*

Still other Settlement implementation steps include the retention of the Appeals Advisory Panel (composed of five neurologists/board certified neurospecialists) and Appeals Advisory Panel Consultants (3 neuropsychologists) by April 7, 2017. *Id.* ¶ 113. This body is charged with reviewing diagnoses made prior to January 7, 2017, and will be advising the Special Masters and the Court. *Id.*

N. The Settlement Agreement and Fees

As noted above and as the Court is already aware, the parties discussed the payment of attorneys' fees separate and apart from all other Settlement benefits. Section III.C, *supra*; Seeger Decl. ¶ 74. The NFL Parties have agreed to pay attorneys' fees and reasonable costs and expenses incurred by Plaintiffs' Counsel provided that the request does not exceed \$112.5 million. Seeger Decl. ¶ 74 (citing Settlement § 21.1 [ECF No. 6481-1, at 82]). Thus, unlike traditional common fund cases, where attorneys' fees are paid as a percentage of the recovery, the NFL Parties will pay any fee award over and above the Settlement's benefits and thus the Class here is further benefitted by not incurring such payment for work done for its common benefit.

Due to the lengthy term of the Settlement (65 years) and the necessary involvement of Plaintiffs' Counsel in the coming years (indeed, decades) to ensure that its terms are met and that Class Members' rights and interests are protected, *see* Seeger Decl. ¶¶ 101-19, the Settlement includes a provision authorizing a petition to the Court to set aside up to five percent of each monetary award and Derivative Claimant award to facilitate the Settlement program and related efforts of Plaintiffs' Counsel. *See id.*; ECF No. 6423-3, ¶ 55. The provision was expressly mentioned in the Class Notice. ECF No. 6086-1, at 18.

If a Class Member is represented by individual counsel, the attorney's fees payable to that counsel would be reduced by the amount of this proposed set-aside, so that the holdback will in no way increase the attorney's fees paid by Class Members who hire their own counsel on a contingency fee basis. Seeger Decl. ¶ 103; Settlement § 21.1 [ECF No. 6481-1, at 82]. These monies will be held in a separate fund overseen by the Court, pending subsequent application to the Court for remuneration of those counsel performing settlement-related work. Seeger Decl. ¶ 101. The NFL Parties will take no position on this issue. Settlement § 21.1.

IV. <u>ARGUMENT</u>

A. Third Circuit Legal Standards for Fee Applications

Two methods are generally used for determining attorneys' fees in class action cases: the percentage-of-recovery method and the lodestar method. *In re Prudential Ins. Co. of Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283, 333 (3d Cir. 1998). In the Third Circuit, "[t]he percentage-of-recovery method is generally favored in cases involving a common fund, and is designed to allow courts to award fees from the fund 'in a manner that rewards counsel for success and penalizes it for failure." *Welch & Forbes, Inc. v. Cendant Corp. (In re Cendant Corp. PRIDES Litig.)*, 243 F.3d 722, 732 (3d Cir. 2001) (quoting *In re Prudential*, 148 F.3d at 333).

The lodestar method is more commonly used in statutory fee-shifting cases. *In re Rite Aid Corp. Sec. Litig*, 396 F.3d 294, 300 (3d Cir. 2005). The Third Circuit recommends, but does not require, that district courts using the percentage of the fund method conduct a lodestar cross-check on the reasonableness of the fee award. *See In re Cendant Corp. Sec. Litig.*, 404 F.3d 173, 183 n.4 (3d Cir. 2005) (affirming district court's percentage of the fund fee award, even though district court did not conduct lodestar cross-check); *O'Keefe v. Mercedes-Benz USA, LLC*, 214 F.R.D. 266, 310 (E.D. Pa. 2003) (Third Circuit recommends but does not require lodestar cross-check). Thus, the lodestar cross-check is "suggested," but not mandatory. *Moore v. GMAC Mortgage*, No. 07-4296, 2014 WL 12538188, at *2 (E.D. Pa. Sept. 19, 2014) (citing *In re Cendant Corp. PRIDES Litig.*, 243 F.3d at 735).

The instant case does not involve either an application for assessment of fees against the defendant pursuant to a fee-shifting statute, or a traditional common fund out of which payment of fees are sought. As this Court has noted, "[a] fee award in this case will not come from a common fund. The ultimate amount the NFL Parties must pay in attorneys' fees will have no impact on the Monetary Awards paid or baseline assessment examinations given because the NFL Parties have already guaranteed these benefits, in full, to eligible claimants." *In re NFL*, 307 F.R.D. at 374 (citing Settlement § 21.1).

Nevertheless, the principles employed in assessing a percentage-of-the common fund attorneys' fees claim are appropriate here because the sundry settlement benefits secured by Plaintiffs' Counsel, totaling over \$1 billion in value, are a *constructive* common fund. In such circumstances, courts often rely on common fund principles and their inherent management powers to award fees to lead counsel in cases that do not actually generate a common fund. *See*, *e.g.*, *Dewey v. Volkswagen Aktiengesellschaft*, 558 F. App'x 191, 197 (3d Cir. 2014); *Jackson v.*

Wells Fargo Bank, N.A., 136 F. Supp. 3d 687, 713 (W.D. Pa. 2015) ("[G]iven that each of these amounts will be paid by defendants, the economic effect essentially is that of a common fund."); In re Heartland Payment Sys., Inc. Customer Data Sec. Breach Litig., 851 F. Supp. 2d 1040, 1072 (S.D. Tex. 2012) ("Having two funds—one for the claimants, one for the attorneys—is a well-recognized variant of a common-fund arrangement."). Furthermore, although it is uncapped, there is a clearly delineated fund recovered on behalf of the Class that lends itself well to valuation. In fact, the MAF has been valued by both Class Plaintiffs and the NFL Parties' experts.

By contrast, "[t]he lodestar method is generally applied in statutory fee shifting cases and 'is designed to reward counsel for undertaking socially beneficial litigation in cases where the expected relief has a small enough monetary value that a percentage-of-recovery method would provide inadequate compensation." *Hegab v. Family Dollar Stores, Inc.*, No. 11-1206, 2015 WL 1021130, at *11 (D.N.J. Mar. 9, 2015) (citing *In re Cendant Corp.*, 243 F.3d at 732). Also, the lodestar method is preferable where "the nature of the recovery does not allow the determination of the settlement's value required for application of the percentage-of-recovery method." *In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 300 (3d Cir. 2005). This concern is inapplicable here because, as noted above, the Settlement's components lend themselves to valuation. Moreover, Plaintiffs' Counsel are not applying for an award of fees against the NFL Parties pursuant to a statute that carves an exception from the "American Rule" that each side is responsible for its own attorneys' fees, so this is plainly not a statutory fee-shifting case. Nonetheless, because the Third Circuit recommends a lodestar cross-check in addition to the percentage of fee recovery analysis, both methods are discussed below.

B. Analysis Under the Percentage of Recovery Method Supports the Requested Award

There are ten factors that the Third Circuit has identified in considering whether an attorneys' fee award is reasonable under the percentage-of-recovery method. Known as the *Gunter/Prudential* factors, these are:

- 1. The size of the fund and the number of persons benefited;
- 2. Whether members of the class have raised substantial objections to the settlement terms or fee proposal;
- 3. The skill and efficiency of the attorneys involved;
- 4. The complexity and duration of the litigation;
- 5. The risk of nonpayment;
- 6. The amount of time devoted to the case by Plaintiffs' counsel;
- 7. The fee awards in similar cases;
- 8. The value of benefits attributable to the efforts of class counsel relative to the efforts of other groups, such as government agencies conducting investigations;
- 9. The percentage fee that would have been negotiated had the case been subject to a private contingent fee arrangement at the time counsel was retained; and
- 10. Any innovative terms of settlement.

In re Diet Drugs Prods. Liab. Litig., 582 F.3d 524, 541 (3d Cir. 2009); Gunter v. Ridgewood Energy Corp., 223 F.3d 190, 197-201 (3d Cir. 2000); In re Prudential, 148 F.3d at 336-40.

1. The Size of the Fund and the Number of Persons Benefited

"In applying the percentage-of-recovery method, [the Court] must begin by making a reasonable estimate of the settlement value." *Cullen v. Whitman Med. Corp.*, 197 F.R.D. 136, 147 (E.D. Pa. 2000). "Generally, the factor given the greatest emphasis [in awarding a percentage of the recovery] is the size of the [recovery] created, because [the recovery] 'is itself the measure of success . . . [and] represents the benchmark from which a reasonable fee will be awarded." David F. Herr, *Annotated Manual for Complex Litigation, Fourth* § 14.121, at 220 & n.518 (rev. ed. 2016) (quoting 4 Alba Conte & Herbert B. Newberg, *Newberg on Class Actions* ["Newberg on Class Actions"] § 14.6, at 547, 550 (4th ed. 2002)).

When calculating the value of a settlement, courts usually include any cash compensation to class members, cash the defendant must pay to third parties, non-cash relief that can be reliably valued, attorneys' fees and expenses, and administrative costs paid by the defendant. *E.g.*, *In re: Heartland Payment*, 851 F. Supp. 2d at 1080; *In re Oil Spill by the Oil Rig* "Deepwater Horizon" in the Gulf of Mexico, on Apr. 20, 2010, No. 2179, 2016 WL 6215974, at *15-16 (E.D. La. Oct. 25, 2016).

Here, the Class is estimated to exceed 20,000. The Class is composed of three types of claimants:

- (1) <u>Retired NFL Football Players</u>, defined as all living NFL Football Players who, prior to the date of the Preliminary Approval and Class Certification Order, retired, formally or informally, from playing professional football with the NFL or any Member Club, including American Football League, World League of American Football, NFL Europe League and NFL Europa League players
- (2) <u>Representative Claimants</u>, defined as authorized representatives, ordered by a court or other official of competent jurisdiction under applicable state law, of deceased or legally incapacitated or incompetent Retired NFL Football Players; and
- (3) <u>Derivative Claimants</u>, defined as spouses, parents, and children who are dependents, or any other persons who properly under applicable state law assert the right to sue independently or derivatively by reason of their relationship with a Retired NFL Football Player or deceased Retired NFL Football Player.

Settlement §§ 1.1(a) & 2(ee), (eeee), (ffff) [ECF No. 6481-1, at 8, 12, 18].

The Class consists of two Subclasses. Subclass 1 is defined as Retired NFL Football Players who were not diagnosed with a Qualifying Diagnosis prior to the date of Preliminary Approval (July 7, 2014), and their Representative Claimants and Derivative Claimants. *Id.* § 1.2(a) [ECF No. 6481-1, at 8]. Subclass 2 is defined as Retired NFL Football Players who *were* diagnosed with a Qualifying Diagnosis prior to July 7, 2014, and their Representative Claimants

and Derivative Claimants, and the Representative Claimants of deceased Retired NFL Football Players who were diagnosed with a Qualifying Diagnosis prior to death, or who died prior to April 22, 2015 and who received a post-mortem diagnosis of CTE. *Id.* §§ 1.2(b), 6.3(f) [ECF No. 6481-1, at 8].

The Settlement has three components: the uncapped MAF; the BAP, a \$75 million medical testing and benefit program, with its central function of establishing the neurocognitive conditions of players when they enter the settlement program; and a \$10 million education fund "to promote safety and injury prevention for football players of all ages[.]"

The MAF is an uncapped, inflation-adjusted fund that provides cash awards for Retired NFL Players who receive Qualifying Diagnoses over the next 65 years. In dollar terms, the MAF constitutes the bulk of the Settlement. Actuarial projections are that the MAF will pay out some \$900-\$950 million by the end of its 65-year term, with the risk of any additional payment for claims being borne entirely by the NFL. *In re NFL*, 307 F.R.D. at 364-66, 418; ECF No. 6167, at 4.²⁴ The Settlement offers monetary awards of up to \$5 million for serious medical conditions associated with concussions and other brain traumas associated with NFL play; the medical conditions include Parkinson's Disease, Alzheimer's Disease, ALS, and others. *See* Settlement, Ex. A-3 [ECF No. 6481-1, at 122 (Monetary Award Grid)]. In terms of the designated dollar amounts, the Court found that "[t]he maximum awards are in line with other personal injury settlements." *In re NFL*, 307 F.R.D. at 405.

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The actuarial model that Class Counsel developed anticipated certain participation rates for filed and unfiled cases. It also anticipated certain incident rates for the compensable disease categories (*i.e.*, the Qualifying Diagnoses). Specifically, Class Counsel assumed a 50% participation rate for Class Members who had not filed suit and a 90% participation rate for those who had. Seeger Decl. ¶ 44 n.1. If registrations exceed the participation assumption, as may occur given the pre-registrations and registrations to date, the value of the Settlement, given the negotiated uncapped nature of the MAF, will likely exceed prior valuations. *Id.*

Although the BAP is initially funded at \$75 million, a baseline examination is guaranteed for all participating Class Members by the NFL, even if the initial \$75 million is exhausted: the Settlement "ensures that all Retired Players with half of an Eligible Season credit have access [during a specified period] to free baseline assessment examinations so that they may monitor their symptoms, and receive Qualifying Diagnoses more easily if their symptoms worsen." *Id.* at 395. Finally, the Settling Parties created a \$10 million fund to promote safety and injury prevention for football players of all ages, including youth football players, and to educate Class Members about their NFL CBA Medical and Disability Benefits. Settlement Art. XII [ECF No. 6481-1, at 68]; *In re NFL*, 307 F.R.D. at 368-69.

Under the terms of the Settlement, the NFL Parties are obligated to fund the administrative costs of the Settlement program. First, the NFL Parties paid \$4 million for the notice plan. Settlement § 14.1(b) [ECF No. 6481-1, at 70]. Second, the compensation for the Special Masters is paid by the NFL Parties, through the MAF (without, of course, reducing any Class Member's individual MAF benefit because the MAF is uncapped). *Id.* § 10.1(c) [ECF No. 6481-1, at 55]. Third, compensation for the Appeals Advisory Panel and Appeals Advisory Panel Consultants will also be paid by the NFL Parties from the MAF (again, without reducing any Class Member's individual MAF benefit). *Id.* § 9.8(a)(v) [ECF No. 6481-1, at 53]. Fourth, the Settlement also provides that the NFL Parties will pay the reasonable compensation of the Claims Administrator (*id.* § 10.2(c) [ECF No. 6481-1, at 58]) and the Lien Resolution Administrator (*id.* § 11.1(c) [ECF No. 6481-1, at 63-64]) from the MAF.

It is important to note that although the compensation amounts for the Special Master, Appeals Advisory Panel and Appeals Advisory Panels Consultants, the Claims Administrator, and the Lien Resolution Administrator will be paid from the MAF, these amounts are *not* part of

the approximately \$950 million actuarial calculations as what the MAF will pay out as *benefits* awards to Class Members over the 65-year term of the Settlement. *See In re NFL*, 307 F.R.D. at 365, 418. Consequently, all of these administrative costs to be borne by the NFL Parties represent an added benefit to the Class.

Finally, as noted in Section III above, an additional value conferred on the Class is that Members will have Plaintiffs' Counsel's attorneys' fees and reimbursement of expenses for common benefit work paid for by the NFL Parties, rather than have a portion of the settlement recovery sliced off to pay fees and expenses, which is ordinarily the case with common fund recoveries.

Thus, when considering these amounts, Plaintiffs' Counsel secured a benefit of nearly \$1.2 billion for the Class:

BENEFIT	AMOUNT/VALUE	SOURCE
Monetary Award Fund	\$950,000,000	ECF No. 6167, at 4 (NFL Concussion Liability Forecast)
Baseline Assessment Program	\$75,000,000	Settlement § 23.1(b)
Education Fund	\$10,000,000	Settlement § 23.1(c)
Notice Costs	\$4,000,000	Settlement § 14.1(b)
Claims Administration	\$11,925,000	Decl. of Orran Brown, Sr.
Attorneys' Fees Provision	\$112,500,000	Settlement § 21.1
TOTAL:	\$1,163,425,000	

These are remarkable benefits for a large class and this factor favors approval of the requested fee and expense award, which seeks an award equal to approximately nine percent of the value of the recovery. Again, it bears repeating that not a penny of this award will come out of the pockets of a single Class Member. See In re Oil Spill by Oil Rig Deepwater Horizon in

Gulf of Mexico, on Apr. 20, 2010, 910 F. Supp. 2d 891, 909, 933-34 (E.D. La. 2012) (settlement that provided that defendant would not oppose "a significant award of common benefit attorneys' fees and costs, effectively spar[ed] the class from having to pay for common-benefit fees and expenses"), aff'd sub nom. In re Deepwater Horizon, 739 F.3d 790 (5th Cir. 2014).

2. Whether Members of the Class Have Raised Substantial Objections to the Settlement Terms or Fee Proposal

It cannot genuinely be disputed that the reaction of the Class – approximately one-quarter of whose members had individual representation – to the Settlement was overwhelmingly positive. ²⁵ As the Third Circuit noted in affirming this Court's final approval of the Settlement, only about one percent of Class Members objected to the Settlement and approximately another one percent opted out. *In re NFL*, 821 F.3d at 438. Notably, of those opt-outs, a significant number have since revoked their opt-outs with the consent of the Settling Parties and the approval of the Court. *See* ECF Nos. 7117-1 (¶¶ 5-6), 7119. ²⁶

It was not just the paucity of objections and opt-outs that demonstrated the resoundingly positive response to the Settlement. While objectors' appeals were proceeding, Class Members and their counsel expressed significant interest in the commencement of the Settlement program, and the Settling Parties worked hard to prepare for implementation. At present, more than 12,000 Class Members and their counsel have signed up for future information about the

Prior to the Fairness Hearing, several objectors included challenges to the amount provided for in the Settlement. *See, e.g.*, ECF Nos. 6213, 6233, 6237. These objections baldly asserted that the fees were excessive, with no analysis of relevant Third Circuit caselaw. As discussed throughout this brief, the requested fee is reasonable and any objection asserting that it is excessive lacks merit.

As this Court observed at the time of Final Approval, "[t]hese figures [we]re especially impressive considering that about 5,000 Retired Players [were] represented by counsel in this MDL, and could easily have objected or opted out to pursue individual suits." *In re NFL*, 307 F.R.D. at 389.

settlement program, and provided the Claims Administrator with contact information to receive notification once the Settlement becomes effective. Brown Decl. at 2. Thousands more have communicated with the Claims Administrator about the Settlement since it received this Court's Final Approval. The Settlement website has received over 180,000 unique visits. *Id.* The Claims Administrator has received nearly 1,100 written communications and responded to the over 1,000 that asked questions about the Settlement. The Settlement Call Center has received over 14,000 calls with well over half of the callers speaking directly to live operators for a total of nearly 500 hours. *Id.* at 2-3. "The absence of substantial objections by class members to the fees requested by counsel strongly supports approval." *In re AT & T Corp.*, 455 F.3d 160, 170 (3d Cir. 2006).

3. The Skill and Efficiency of the Attorneys Involved

"The skill and efficiency of Plaintiffs' Counsel is measured by the quality of the result achieved, the difficulties faced, the speed and efficiency of the recovery, the standing, experience and expertise of the counsel, the skill and professionalism with which counsel prosecuted the case and the performance and quality of opposing counsel." *Meijer, Inc. v. 3M*, No. 04-5871, 2006 WL 2382718, at *21 (E.D. Pa. Aug. 14, 2006) (citation omitted). Here, "[c]ounsel are experienced practitioners . . . [t]his experience and the results obtained for the class reflect Class Counsel's skill and efficiency." *In re Wellbutrin SR Antitrust Litig.*, No. 04-5525, 2011 U.S. Dist. LEXIS 158833, at *16-17 (E.D. Pa. Nov. 21, 2011); *In re Linerboard Antitrust Litig.*, No. MDL-1261, 2004 WL 1221350, at *5 (E.D. Pa. June 2, 2004).

No objector challenged the expertise of Plaintiffs' Counsel. Co-Lead Class Counsel Christopher Seeger has spent a quarter-century litigating mass tort and class actions, particularly in the MDL context. He has served as plaintiffs' lead counsel or as a member of the plaintiffs' executive committee or steering committee in dozens of cases. *See* ECF No. 6423-3 (¶¶ 2-4);

Seeger Decl. ¶ 2. In particular, he has served as lead plaintiffs' negotiator for multiple large settlements, including the Vioxx settlement totaling \$4.85 billion, the DePuy Orthopaedics, Inc. ASR Hip Implant Products settlement, totaling nearly \$2.5 billion, and the first and second Zyprexa settlements, which resulted in a total \$1.2 billion payout. Id. ¶ 2.

Co-Lead Class Counsel Sol Weiss, Subclass Counsel Arnold Levin and Dianne Nast, and Class Counsel Gene Locks and Steven Marks possess similarly impeccable credentials. *See In re Diet Drugs Prods. Liab. Litig.*, MDL No. 1203, 2000 WL 1222042, at *44 (E.D. Pa. Aug. 28, 2000) ("Each of the Class Counsel [Messrs. Levin, Weiss, Locks, and others] are experienced in the conduct of class litigation, mass tort litigation and complex personal injury litigation[.]"); ECF No. 6423-3 (¶ 27) (noting that Messrs. Marks and Weiss are "attorneys with decades of class action and MDL litigation experience"); ECF No. 6423-10 (¶ 2) (describing Mr. Levin's leadership positions in over 100 class actions, mass torts, and complex personal injury suits); ECF No. 6423-9 (¶ 2) (discussing Ms. Nast's leadership positions in over 48 complex cases). Plaintiffs' appellate counsel, Professor Samuel Issacharoff of the New York University School of Law, is also an extremely experienced and talented advocate. Professor Issacharoff helped steer the defense of the 23(f) and final approval appeals, successfully arguing twice before the Third Circuit, and serving as counsel of record in the Supreme Court in opposition to the two *certiorari* petitions. Seeger Decl., Ex. O (Issacharoff Decl.).

The achievements of Plaintiffs' Counsel are particularly noteworthy because they went up against the NFL Parties' counsel – Paul, Weiss, Rifkind, Wharton & Garrison – one of this nation's premier law firms. The firm is commonly recognized for its excellence, *see*, *e.g.*, *In re Warner Communications Sec. Litig.*, 618 F. Supp. 735, 749 (S.D.N.Y. 1985), *aff'd*, 798 F.2d 35 (2d Cir. 1986); *In re WorldCom, Inc. Sec. Litig.*, 388 F. Supp. 2d 319, 358 (S.D.N.Y. 2005)

(stating defense counsel, including Paul, Weiss, the lead defense firm, were "formidable opposing counsel" and among "some of the best defense firms in the country"); *In re Schering-Plough Corp.*, No. 08-2177, 2013 WL 5505744, at *27 (D.N.J. Oct. 1, 2013) (noting caliber of the Paul Weiss firm), and it routinely leads the defense of immensely complex and challenging litigation.

The NFL called upon the services of other elite law firms as well in this litigation, such as Dechert LLP and Paul D. Clement (formerly of Bancroft PLLC and now with Kirkland & Ellis), who argued the NFL's motion to dismiss on federal preemption grounds. Simply put, "[c]lass counsel... faced formidable opposition from the skilled counsel opposing this litigation. All of these facts weigh in favor of granting Class Counsel's request for attorneys' fees." *In re Wellbutrin SR Antitrust Litig.*, 2011 U.S. Dist. LEXIS 158833, at *16-17; *see also Meijer, Inc. v.* 3M, No. 04-5871, 2006 WL 2382718, at *21 (E.D. Pa. Aug. 14, 2006) ("Defense Counsel are also very experienced ... and have defended this suit skillfully."); *Stagi v. Nat'l R.R. Passenger Corp.*, 880 F. Supp. 2d 564, 570 (E.D. Pa. 2012) ("[T]he fact that Plaintiffs' counsel obtained this settlement in the face of formidable legal opposition further evidences the quality of their work.").

4. The Complexity and Duration of the Litigation

As this Court noted, this MDL involved a large class, with events and injuries spread over decades. The litigation "attempt[ed] to resolve issues of considerable scale. Class Members allege[d] negligence and a fraudulent scheme dating back half a century." *In re NFL*, 307 F.R.D. at 388. "The claims of over 20,000 Retired Players [we]re at issue." *Id.* The litigation also encompassed "complex scientific and medical issues not yet comprehensively studied." *Id.* The Court noted further that document discovery, medical record discovery, expert discovery, and motion practice would be complex. *Id.* In particular, the Court noted the

uncertainties in linking CTE to head trauma suffered playing professional football "because clinical study of CTE is in its infancy." *Id.* at 398.

The Third Circuit agreed, concurring with this Court that the "stiff challenges surmounting the issues of preemption and causation" that Class Members faced strongly weighed in favor of the Settlement's approval. *Id.* at 439; *see also id.* at 435 ("Given our experience with similar MDLs, we expect the proceedings would result in years of costly litigation and multiple appeals, all the while delaying any potential recovery for retired players coping with serious health challenges."). In addition, as discussed below, Class Members would have had to confront a litany of defenses, including federal preemption, assumption of risk, lack of causation (both general and specific), and, for many, the statute of limitations. *See generally* Section IV.B.5, *infra*. Given the complexity of this case and the daunting obstacles that stood in the path to a favorable judgment, the settlement benefits of almost \$1.2 billion that were secured for the Class truly represent a remarkable achievement, amply justifying the fees requested here that equal approximately nine percent of that recovery.

5. The Risk of Nonpayment

The Court's analysis should logically proceed from the beginning of the case with an evaluation of the serious risks of non-recovery faced by Plaintiffs' Counsel when they committed themselves to this litigation on a contingency basis. *See In re Diet Drugs Prods. Liab. Litig.*, 553 F. Supp. 2d 442, 478 (E.D. Pa. 2008). "Risk must be assessed *ex ante* from the outset of the case, not in hindsight." *In re Cendant Corp. Litig.*, 264 F.3d 201, 282 (3d Cir. 2001).

"Plaintiffs' Counsel's compensation for their services in this case was wholly contingent on the success of the litigation." *Meijer, Inc.*, 2006 WL 2382718 at *21; *Hegab v. Family Dollar Stores, Inc.*, No. 11-1206, 2015 WL 1021130, at *13 (D.N.J. Mar. 9, 2015) ("Class counsel undertook this action on a contingent fee basis, assuming a substantial risk that they might not be

compensated for their efforts. . . . Courts recognize the risk of non-payment as a major factor in considering an award of attorney fees."). This factor further supports the requested award. *E.g.*, *In re Diet Drugs*, 553 F. Supp. 2d at 479 ("At the inception, and throughout this litigation, there was a substantial risk that the efforts of the Joint Fee Applicants would not be successful."); *In re Am. Investors Life Ins. Co. Annuity Mktg. & Sales Practices Litig.*, 263 F.R.D. 226, 244 (E.D. Pa. 2009) (fee request reasonable where class counsel "undertook representation on a contingency basis[,] . . . advanced hundreds of thousands of dollars in expenses" and prosecuted the case "without any guarantee of payment"); *McGee v. Continental Tire of N. Am.*, No. 066234, 2009 WL 539893, at *15 (D.N.J. Mar. 4, 2009) ("Class Counsel accepted the responsibility of prosecuting this class action on a contingent fee basis and without any guarantee of success or award. Accordingly, this factor weighs in favor of approval."); *In re Ins. Brokerage Antitrust Litig.*, No. 04-5184, 2009 WL 411856, at *5 (D.N.J. Feb 17, 2009) (same).

This litigation presented very significant legal and scientific challenges, any one of which would have spelled doom for Plaintiffs. From the initiation of the litigation, Plaintiffs' claims were at risk due to the NFL Parties' threshold argument that federal labor law precludes the litigation of Plaintiffs' claims in court. In particular, in their motions to dismiss the Master Administrative Class Action Complaint and the Amended Master Administrative Long-Form Complaint on Preemption Grounds, the NFL Parties claimed that Section 301 of the LMRA mandates the preemption of all state-law claims – whether based in negligence or fraud – whose resolution is substantially dependent upon or inextricably intertwined with the terms of a CBA,

or that arise under the CBA. See 29 U.S.C. § 185(a) (codifying Section 301(a)); see also Allis-Chalmers Corp. v. Lueck, 471 U.S. 202, 220 (1985).²⁷

The formidable issue of federal preemption aside, the NFL Parties also could have asserted statute of limitations defenses in future motions to dismiss, a significant potential risk for Plaintiffs and Class Members (several thousand of whom had suits that had been centralized in this MDL at the time of the settlement). *See* ECF 6073-4 (Phillips Decl. ¶ 15). Many of the Retired NFL Football Players have not played for years, or even decades. Certain Class Members' brain injuries and symptoms have been present for several years or even decades. Clearly, these circumstances presented potentially fatal obstacles to Plaintiffs' Counsels' efforts to secure compensation for the Class. Another potential defense for the NFL Parties was the statutory employer defense – with the consequence that Class Members' exclusive remedy would be workers compensation benefits. This is a defense that the NFL Parties had stated they would raise. *See* Seeger Decl. ¶ 22 n.2.

In addition to those threshold defenses, as it has done in other litigation, the NFL would undoubtedly have raised the defense that Plaintiffs had assumed the risks of the cognitive injuries they developed. *See* ECF No. 6073-4 (Phillips Decl. ¶ 15). It is well known that football poses serious injury risks, as countless individuals (at all levels of the game) incur personal injuries every year while playing the sport. It is also well known that countless individuals suffer serious

The risk that Plaintiffs faced on account of this defense is not idle speculation. The NFL had successfully invoked this defense in several individual suits. *E.g.*, *Duerson v. Nat'l Football League*, 12-C-2513, 2012 WL 1658353 (N.D. Ill. May 11, 2012); *Maxwell v. Nat'l Football League*, 11-08394, Order (C.D. Cal. Dec. 8, 2011); *see also Stringer v. Nat'l Football League*, 474 F. Supp. 2d 894 (S.D. Ohio 2007). In each of these cases, the courts held that the NFL players' claims against the NFL or its member clubs relating to duties that are imposed by the CBAs were preempted because they required interpretation of CBA terms. The *Duerson* and *Maxwell* cases involved head injuries and were transferred to this MDL.

head trauma, including concussions, while playing football. Therefore, the NFL Parties would have presented a strong assumption of risk defense to Plaintiffs' claims.

Further hurdles remained. From a scientific standpoint, as the Court aptly noted, "even if Class Members could conclusively establish general causation, the problem of specific causation remain[ed]. Class Members argue[d] that the cumulative effect of repeated concussive blows Retired Players experienced while playing NFL Football led to permanent neurological impairment. Yet the overwhelming majority of Retired Players likely experienced similar hits in high school or college football, before they ever reached the NFL. Brain trauma during youth, while the brain is still developing, could also play a large role in later neurological impairment." *In re NFL*, 307 F.R.D. at 393. It would have been difficult, therefore, to isolate "the effect of hits in NFL Football from hits earlier in a Retired Player's career." *Id*.

The Third Circuit agreed with this Court's assessment, stating that it "concur[ed] with the District Court that this factor weighed in favor of settlement because Class Members face[d] stiff challenges surmounting the issues of preemption and causation." *In re NFL*, 821 F.3d at 439 (citing this Court's opinion; internal quotation marks omitted). In short, Plaintiffs would have had a panoply of daunting (and possibly insurmountable) hurdles to overcome in obtaining a favorable judgment. The risk of non-payment to Plaintiffs' Counsel was therefore, to say the least, considerable.

6. The Amount of Time That Plaintiffs' Counsel Devoted to the Case

Plaintiffs' Counsel have expended a total of almost 51,000 hours on this litigation (including innumerable late nights, weekends, and holidays). Seeger Decl. ¶ 78. As detailed above, this time has included many hours in mediation and negotiations; extensive research of claims from both legal and scientific standpoints; research and briefing for multiple filings and appeals; and wide-ranging coordination with both the Claims Administrator and the Lien

Administrator to establish the administrative infrastructure to ensure effectiveness of the Settlement. *See* Sections III.B-M, *supra*. The needed commitment of so much time and resources to this undertaking – which necessarily resulted in Plaintiffs' Counsel foregoing other professional opportunities – further militates in favor of the instant application. *See*, *e.g.*, *Wellbutrin SR Antitrust Litig.*, 2011 U.S. Dist. LEXIS 158833, at *17 (more than 41,000 hours spent on case was a "substantial" time commitment favoring approval of fee application).

To be sure, as some objectors noted (and misguidedly placed undue reliance upon), there may not have been *formal* discovery, but that certainly does not mean that these claims were not intensely litigated or that a great deal of time and resources did not go into achieving the Settlement and putting it into effect. Those efforts included researching Plaintiffs' claims, developing information about the Class, contesting the NFL Parties' threshold preemption motions, consulting with numerous experts (including medical, economic, and actuarial),²⁸ exchanging reams of information with the NFL Parties, extensive and spirited mediation, and defending the Settlement at three judicial levels (including unorthodox onslaughts such as the attempts at interlocutory review of the Court's preliminary approval). *See* Sections III.B-L, *supra*. "The record of this litigation . . . indicates that the time spent by Plaintiffs' counsel was necessary for the successful prosecution of this case, considering both the complexity of the issues and the robust defense mounted by the defendants." *In re Flonase Antitrust Litig.*, 291 F.R.D. 93, 104 (E.D. Pa. 2013); *In re Automotive Refinishing Paint Antitrust Litig.*, MDL No. 1426, 2008 WL 63269, at *5 (E.D. Pa. Jan. 3, 2008) ("amount of time and expense"

Plaintiffs' Counsel, with the assistance of their experts, also thoroughly reviewed peer-reviewed medical literature on, *inter alia*, brain injury, concussions, the effect of sub-concussive hits to the head on the brain, the epidemiology of the Qualifying Diagnoses, and the methods of diagnosis and treatment for the Qualifying Diagnoses. Seeger Decl. ¶ 29.

demonstrated counsel's "significant commitment of resources" to litigation and weighed in favor of approving fee petition).

7. Fee Awards in Similar Cases

"This factor requires the Court to compare the percentage of recovery requested as a fee in this case against the percentage of recovery awarded as a fee in other common fund cases in which the percentage of recovery method, rather than the lodestar method, was used." *Meijer*, *Inc.*, 2006 WL 2382718 at *22; *In re Cendant Corp. PRIDES Litig.*, 243 F.3d at 737. Here, Plaintiffs' Counsel request an award amounting to approximately nine percent of the value of the total relief secured for the Class. This is a modest percentage that is well within the parameters for class action fee awards in this Circuit.²⁹ Indeed, in *In re Rite Aid*, the Third Circuit noted

²⁹ E.g., Bodnar v. Bank of Am. N.A., No. 14-3224 (E.D. Pa. Aug. 4, 2016) (ECF No. 90) (approving fee request that "would be approximately 36.8 percent of the mere cash value of the fund, and considering non-monetary, injunctive relief as well"); In re Viropharma Inc., Sec. Litig., No. 12-2714, 2016 WL 312108, at *16 (E.D. Pa. Jan. 25, 2016) (approving 30% of \$8 million settlement fund); In re Flonase Antitrust Litig., 951 F. Supp. 2d 739, 751 (E.D. Pa. 2013) (awarding one-third fee on settlement of \$150 million); In re Processed Egg Prods. Antitrust Litig., MDL No. 2002, 2012 WL 5467530, at *1 (E.D. Pa. Nov. 9, 2012) (approving fees equal to 30% of \$25 million fund); Alexander v. Washington Mut., Inc., No. 07-4426, 2012 WL 6021103, at *3 (E.D. Pa. Dec. 4, 2012) (30% of \$4 million fund); Stagi v. Nat'l R.R. Passenger Corp., 880 F. Supp. 2d 564, 571 (E.D. Pa. 2012) ("[T]his District's fee awards generally range between nineteen and forty-five percent of the common fund.") (citing In re Corel Corp., Inc. Sec. Litig., 293 F. Supp. 2d 484, 497 (E.D. Pa. 2003), and other cases); In re Auto. Refinishing Paint Antitrust Litig., MDL No. 1426, 2008 WL 63269, at *3 (E.D. Pa. Jan. 3, 2008) (33% of \$39 million supplement to fund); Bradburn Parent Teacher Store, Inc. v. 3M, 513 F. Supp. 2d 322, 342 (E.D. Pa. 2007) (approving 35% of \$81 million, plus reimbursement of expenses); In re Ravisent Techs., Inc. Sec. Litig., No. 1014, 2005 WL 906361, at *10-11 (E.D. Pa. Apr. 18, 2005) (33% of \$7 million fund, and noting that "courts within the [Third Circuit] have typically awarded attorneys' fees of 30% to 35% of the recovery, plus expenses"); In re Linerboard Antitrust Litig., No. MDL 1261, 2004 WL 1221350, at *1 (E.D. Pa. June 2, 2004) (awarding 30% of \$202,572,489 settlement fund), amended, 2004 WL 1240775, at *1 (June 4, 2004); In re Rent-Way Secs. Litig., 305 F. Supp. 2d 491, 519 (W.D. Pa. 2003) (25% of \$25 million settlement fund); In re Flat Glass Antitrust Litig., MDL No. 1200 (W.D. Pa. May 20, 2003) (33% of fund); In re ATI Techs. Inc. Sec. Litig., No. 01-2541, 2003 WL 1962400, at *2 (E.D. Pa. Apr. 28, 2003) (30% of \$8 million fund); In re Cell Pathways Secs. Litig. II, No. 01-cv-1189, 2002 WL 31528573, at *1 (E.D. Pa. Sept. 23, 2002) (30% of fund comprised of \$2 million and 1.7 million (Footnote continued . . .)

three studies which found that fee awards ranging between 25-33 percent of common funds were not unusual. *In re Rite Aid*, 396 F.3d at 303. If anything, Plaintiffs Counsel's fee request is well below the norm.

Although in the Third Circuit "it may be appropriate for percentage fees awarded in large recovery cases to be smaller in percentage terms than those with smaller recoveries[,] . . . the declining percentage concept does not trump the fact-intensive *Prudential/Gunter* analysis." *In re Rite Aid Corp. Sec. Litig.*, 396 F.3d at 302-03. Indeed, "there is no rule that a district court must apply a declining percentage reduction in every settlement involving a sizable fund." *Id.* ³⁰

shares of common stock); *In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 262-63 (D. Del. 2002) (22.5% of \$44.5 million settlement); *In re Ikon Offices Solutions Inc. Sec. Litig.*, 194 F.R.D. at 192 (30% of \$108,915,874.43 settlement fund); *Cullen*, 197 F.R.D. at 150 ("[T]he award of one-third of the fund for attorney's fees is consistent with fee awards in a number of recent decisions within this district."); *Ratner v. Bennett*, No. 92-4701, 1996 WL 243645, at *9 (E.D. Pa. May 8, 1996) (35% of \$400,000); *Lazy Oil Co. v. Witco Corp.*, 95 F. Supp. 2d 290, 322-23 (W.D. Pa. 1997) (28% of \$18.9 million settlement fund); *In re Greenwich Pharm. Sec. Litig.*, No. 92-3071, 1995 WL 251293, at *6 (E.D. Pa. Apr. 25, 1995) (33.3% of \$4,375,000 fund).

Many courts and commentators reject the sliding scale or "mega-fund" (as it is sometimes referred to) approach, including because it irrationally punishes lawyers for achieving large recoveries on behalf of classes. E.g., In re Linerboard Antitrust Litig., No. 98-5055, 2004 WL 1221350, at *16-17 (E.D. Pa. June 2, 2004) ("The Court rejects [the sliding scale] in this case because the highly favorable settlement was attributable to the petitioners' skill and it is inappropriate to penalize them for their success. Moreover, the sliding scale approach is economically unsound."); In re Ikon Office Solutions, Inc., Secs. Litig., 194 F.R.D. at 197 ("[A]pproach also fails to appreciate the immense risks undertaken by attorneys in prosecuting complex cases in which there is a great risk of no recovery."); In re Synthroid Mktg. Litig., 264 F.3d 712, 718 (7th Cir. 2001) ("We have held repeatedly that, when deciding on appropriate fee levels in common-fund cases, courts must do their best to award counsel the market price for legal services, in light of the risk of nonpayment and the normal rate of compensation in the market at the time. . . . We have never suggested that a 'megafund rule' trumps these market rates[.]"); In re Toyota Motor Corp. Unintended Acceleration Mktg., Sales Practices, & Prods. Liab. Litig., No. 8:10-mdl-02151-JVS, at 17 n.16 (C.D. Cal. Jun. 17, 2013) ("The Court also agrees with . . . other courts . . . which have found that decreasing a fee percentage based only on the size of the fund would provide a perverse disincentive to counsel to maximize recovery for the class."); Allapattah Servs., Inc. v. Exxon Corp., 454 F. Supp. 2d 1185, 1213 (S.D. Fla. 2006) (Footnote continued . . .)

As the Court of Appeals explained in *Rite Aid*, "the reason courts apply the declining percentage principle 'is the belief that in many instances the increase [in recovery] is merely a factor of the size of the class and has no direct relationship to the efforts of counsel." *Id.* at 302 (quoting *In re Prudential*, 148 F.3d at 339 (internal quotations omitted). That cannot genuinely be said here.

Thus, in *In re Prudential*, in vacating the fee award of \$90 million on a settlement estimated at \$1 billion, *id.* at 338-40, much of the Third Circuit's concern was case-specific. In particular, the Court of Appeals questioned such a sizable fee award when much of the settlement apparently had resulted from the work of state regulators and a multi-state insurance task force. *See In re Prudential*, 148 F.3d at 342. In *Rite Aid*, in contrast, the Court found that class counsel's "extraordinarily deft and efficient" handling of the complex securities matter had resulted in a "rich settlement," *In re Rite Aid Corp. Sec. Litig.*, 269 F. Supp. 2d 603, 609-11 (E.D. Pa. 2003), and although it remanded the Court's fee award for further determination because of an error in the lodestar cross-check, it nonetheless agreed that "class counsel's efforts [had] played a significant role in augmenting and obtaining an immense fund," and that the Court had acted within its discretion in declining to apply a "sliding scale" percentage. *In re Rite Aid*, 396 F.3d at 303.

But even taking this "mega-fund" approach into account, an award of approximately nine percent is still well within the norm in this Circuit for class counsel fees in cases involving recoveries that exceed \$100 million. *E.g.*, *King Drug Co. of Florence v. Cephalon*, No. 06-cv-01797-MSP, 2015 WL 12843830 at *5 (E.D. Pa. Oct. 15, 2015) (awarding 27.5% of \$512 million settlement); *In re Rite Aid Corp. Sec. Litig.*, 362 F. Supp. 2d 587, 588-90 (E.D. Pa. 2005)

⁽sliding scale does not "reward[] Class Counsel for the additional work necessary to achieve a better outcome for the class" and "creates the perverse incentive for Class Counsel to settle too early for too little.").

(awarding 25% of \$125 million fund); *In re Rite Aid Corp. Sec. Litig.*, 146 F. Supp. 2d 706, 736, n.44 (E.D. Pa. 2001) (25% of \$193 million fund); *In re Ikon Offices Solutions Inc. Sec. Litig.*, 194 F.R.D. 166, 192 (E.D. Pa. 2000) (30% of \$108,915,874.43 settlement fund).³¹ In fact, a frequently cited study of class action recoveries found that the average fee award for large class settlements was 13.7% nationwide, with a median of 9.5 percent. Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements*, 7 J. of Empirical Legal Stud., 811-46, 839 (Dec. 2010) (Table 11) (copy annexed to Seeger Decl. as Exhibit Y).

8. The Value of Benefits Attributable to the Efforts of Class Counsel Relative to the Efforts of Other Groups

"This factor seeks to compare the actions of government prosecutions, similar private cases, and agency litigation to the instant private litigation." *In re Diet Drugs*, 582 F.3d at 544. Here, as noted, Plaintiffs' Counsel began this litigation in 2011, and there was no similar, previously-existing litigation against the NFL that could be used as a template. Plaintiffs' Counsel conducted their own extensive research, developed their own experts, briefed all the

It is also within the norm of awards made by courts outside this Circuit. *E.g., Lawrence E. Jaffe Pension Plan v. Household Int'l, Inc.*, No. 02-C05893, ECF No. 2265, at 1-2 (N.D. Ill. Nov. 10, 2016) (awarding 24.68% of \$1.575 billion settlement); *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. M 07-1827, 2013 WL 1365900, at *7 (N.D. Cal. Apr. 3, 2013) (28.5% of \$1.1 billion fund); *In re Priceline.com, Inc. Sec. Litig.*, No. 00-1884, 2007 WL 2115592, at *5 (D. Conn. July 20, 2007) (30% of \$80 million fund); *In re Tyco Int'l, Ltd. Multidist. Litig.*, 535 F. Supp. 2d 249, 266, 272, 274 (D.N.H. 2007) (14.5% of \$3.3 billion fund); *In re Adelphia Communs. Corp. Sec. and Derivative Litig.*, No. 03 MDL 1529, 2006 WL 3378705, at *1, *3 (S.D.N.Y. Nov. 16, 2006) (awarding 21.4% of \$455 million fund); *In re Freddie Mac Sec. Litig.*, No. 03-CV-4261 (JES), slip op. at 1 (S.D.N.Y. Oct. 27, 2006) (20% of \$410 million fund); *In re Royal Ahold N.V. Sec. & ERISA Litig.*, 461 F. Supp. 2d 383, 387 (D. Md. 2006) (12% of \$1.1 billion fund); *Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185, 1192 (S.D. Fla. 2006) (31.33% of \$1.1. billion fund); *Shaw v. Toshiba Am. Info. Sys., Inc.*, 91 F. Supp. 2d 942, 972 (E.D. Tex. 2000) (15% of \$1-1.1 billion award); *In re NASDAQ Mkt.-Makers Antitrust Litig.*, 187 F.R.D. 465, 485-86 (S.D.N.Y. 1998) (14% of \$1.027 billion fund).

relevant issues in multiple filings to the Court, and conducted their negotiation sessions without the benefit of previous lawsuits or government prosecutions.

Although there were congressional hearings³² regarding head injuries in the NFL that produced some useful documentation and testimony, there was no parallel state or federal action that provided any impetus toward resolution – as in, for example, an antitrust case. Here, "[t]here is no contention . . . that the settlement could be attributed to work done by other groups, such as government agencies." *Esslinger v. HSBC Bank Nevada, N.A.*, No. 10-3213, 2012 WL 5866074, at *14 (E.D. Pa. Nov. 20, 2012). Thus, "class counsel in this case was not aided by a government investigation. . . . [T]his [i]s a significant factor for courts to consider." *In re AT & T Corp.*, 455 F.3d at 173, Put simply, there was no "litigation roadmap" of which Plaintiffs' Counsel could avail themselves. *Haught v. Summit Res., LLC*, No. 1:15-cv-0069, 2016 WL 1301011, at *10 (M.D. Pa. Apr. 4, 2016). This factor thus further supports the requested award.

9. The Percentage Fee That Would Have Been Negotiated Had the Case Been Subject to a Private Contingent Fee Arrangement at the Time Counsel Was Retained

Also weighing in favor of the requested award is the fact that the size of the award as a percentage of the recovery obtained (nine percent) is markedly below the "percentage fee that would have been subject to a private contingent fee agreement at the time counsel was retained." *In re AT & T*, 455 F.3d 160 (citing *In re Prudential*, 148 F.3d at 340); *In re CertainTeed Fiber Cement Siding Litig.*, 303 F.R.D. 199, 224 (E.D. Pa. 2014).³³ "In private contingency fee cases,

 $^{^{32}}$ E.g., in 2009 and 2010, the U.S. House of Representatives Judiciary Committee held several hearings related to head injuries in the NFL.

Accord, Alexander v. Washington Mut., Inc., No. 07-4426, 2012 WL 6021103, at *3 (E.D. Pa. Dec. 4, 2012) (citing Esslinger, 2012 WL 5866074, at *14); In re Remeron Direct Purchaser Antitrust Litig., No. 03-0085, 2005 WL 3008808, at *16 (D.N.J. Nov. 9, 2005) ("Attorneys regularly contract for contingent fees between 30% and 40% with their clients in (Footnote continued . . .)

lawyers routinely negotiate agreements between 30% and 40% of the recovery." *Esslinger*, 2012 WL 5866074 at *14 (citing *In re Ins. Brokerage Antitrust Litig.*, 282 F.R.D. 92, 123 (D.N.J. 2012)); *Schuler v. Meds Co.*, No. 14-1149, 2016 WL 3457218, at *10 (D.N.J. June 24, 2016) ("The attorneys' fees request one-third of the settlement fund . . . comports with privately negotiated contingent fees privately negotiated on the open market.") (citation and internal quotation marks omitted). ³⁴

10. The Settlement Agreement Contains Many Innovative Features

Also favoring approval of the instant fee petition is that this Settlement contains multiple innovative terms. *See Haught v. Summit Res., LLC*, No. 1:15-cv-0069, 2016 WL 1301011, at *11 (M.D. Pa. Apr. 4, 2016) ("Particularly where a settlement involved 'innovative' or unique terms, such a finding [that the results achieved by class counsel were nothing short of remarkable] may be warranted."); *Tavares v. S-L Distrib. Co.*, 1:13-cv-1313, 2016 WL 1732179, at *13 (M.D. Pa. May 2, 2016) (same).

As noted above, the Settlement provides a 65-year, inflation-adjusted Monetary Award for several Qualifying Diagnoses – including neurological manifestations of a certain severity

non-class, commercial litigation."); *In re Aetna Inc. Secs. Litig.*, MDL No. 1219, 2001 WL 20928, at *14 (E.D. Pa. Jan. 4, 2001) ("[A]n award of thirty percent is in line with what is routinely privately negotiated in contingency fee tort litigation."); *In re Ikon Office Sols., Inc. Sec. Litig.*, 194 F.R.D. 166, 194 (E.D. Pa. 2000) ("[I]n private contingency fee cases, particularly in tort matters, plaintiffs' counsel routinely negotiate agreements providing for between thirty and forty percent of any recovery.").

In *Chakejian v. Equifax Info. Svcs, LLC*, 275 F.R.D. 201 (E.D. Pa. 2011), the Court analyzed a fee application that involved an attorneys' fees payment that was not to be taken from a common fund but, rather, to be paid separately by the defendant pursuant to a statutory feeshifting provision. *Id.* at 216. Although there would be no reduction to any common fund to pay attorney's fees, the Court nevertheless looked to the percentage of recovery method as a cross-check, noting that "contingency fees representing 30% to 40% of recovery are fairly typical" and that class counsel's request for attorney's fees equivalent to 11% of the benefits obtained for the class was "comparatively very reasonable." *Id.* at 220.

that are associated with CTE, even though CTE cannot be diagnosed in living people. The Settlement provides an innovative matrix to establish award amounts, based on a Retired NFL Football Player's age at time of diagnosis, and the amount of years played in the NFL (a reasonable proxy for the resulting degree of exposure to concussive and sub-concussive hits). Although a matrix for monetary awards had been used in other mass tort settlements, the application of this concept to multiple neurocognitive and neuromuscular diseases, using years played as a proxy for exposure to head trauma, was truly innovative.

Providing assessments and Qualifying Diagnoses to retired players in various age groups, spread throughout the country, by qualified medical professionals, called for creating medical networks – the Qualified BAP Providers and the Qualified MAF Physicians. The use of these networks will further the Settlement's goals of providing accurate and consistent diagnoses, as well as ready access to qualified medical providers by Retired NFL Players and their families.

The BAP will provide neurocognitive testing for thousands of Retired NFL Football Players. It is an innovative feature designed to detect and diagnose Level 1, Level 1.5 and Level 2.0 Neurocognitive Impairment. The program requires the BAP Administrator to create a network of qualified medical professionals to administer and evaluate the tests, and to provide BAP Supplemental Benefits. Settlement § 5.7(a)(i) [ECF No. 6481-1, at 28]. Qualified BAP Providers from all over the country will participate in the program, easing travel burdens for Retired NFL Players. *Id.* § 5.7(a)(ii) [ECF No. 6481-1, at 28-29]. The BAP includes state-of-the art neuropsychologial exams, and Plaintiffs' Counsel and their experts drafted guidelines for these tests for the doctors to apply.

The Settlement also creates a network of board-certified neurologists, neurosurgeons, and other neuro-specialist physicians – the Qualified MAF Physicians' network. Settlement § 6.5(a)

[ECF No. 6481-1, at 38]. This network will operate for 65 years, in order to provide Qualifying Diagnoses for Retired NFL Football Players for the duration of their lifetimes. As with the BAP, Qualified MAF Physicians will be available throughout the country, and the Settlement will ease the difficulty of Retired Players finding qualified healthcare providers.

As the Court observed, "Retired Players cannot be compensated for CTE in life because no diagnostic or clinical profile of CTE exists, and the symptoms of the disease, if any, are unknown. But the Settlement *does* compensate the cognitive symptoms allegedly associated with CTE." *In re NFL*, 307 F.R.D. at 396-97 (emphasis in original). CTE "inflicts symptoms compensated by Levels 1.5 and 2 Neurocognitive Impairment and is strongly associated with the other Qualifying Diagnoses in the Settlement." *Id.* at 400. The ability to compensate these cognitive symptoms despite the current lack of scientific means to diagnose CTE in a living retired NFL player, is another innovative aspect of the Settlement.

Also innovative is the Settlement's lien resolution program, which will lower Class Members' costs. The Settlement provides for the retention of an expert (the Lien Resolution Administrator) for the purpose of negotiating collective resolution of governmental and health benefit liens against class member recoveries. Absent global resolution, as is common in an individual injury action, such liens can reduce a claimant's gross award by a third or more. As the Court found, "the lien resolution program will streamline this necessary process and ensure that Class Members receive Monetary Awards as quickly as possible," and "the lien resolution process represents a substantial benefit for Class Members" because the appointed administrator "will be able to negotiate on a class-wide basis" and thereby obtain a "discount" for the Class. *In re NFL*, 307 F.R.D. at 367, 421; *see also* Seeger Decl., Ex B (Decl. of Matthew L. Garretson, dated Jan. 20, 2017).

In addition, the Settlement is innovative in that it protects neurocognitive benefits that Retired NFL Players had bargained for. The Settlement ensures that settlement benefits do not in any way compromise pre-existing benefits to which a Retired Player might be entitled. Significantly, it preserves Retired NFL Football Players' rights to pursue claims for workers compensation and any and all medical and disability benefits under any applicable collective bargaining agreement, including the NFL's Neuro-Cognitive Disability Benefit and the "88 Plan" (which reimburses or pays for up to \$100,000 in medical expenses per year for qualifying retired players with dementia, ALS, and Parkinson's Disease). Settlement § 18.6 [ECF No. 6481-1, at 79-80]. In addition, the Settlement ensures that the provision included in Article 65 of the current CBA, Section 2 – requiring that players execute a release of claims and covenant not to sue in order to be eligible for the NFL's Neuro-Cognitive Disability Benefit – will not be enforced or used against Class Members in connection with this Settlement. *Id.* § 29.1 [ECF No. 6481-1, at 96].

The appeals process is also an innovative feature of the Settlement in that it provides added structural protections for Class Members. Co-Lead Counsel have standing to appeal as part of the Settlement Agreement. *Id.* § 9.5 [ECF No. 6481-1, at 51]. The Settlement provides rights to appeal various decisions, including denial of registration, denial of Monetary Awards, and the amount of a Monetary Award. *Id.*

C. A Lodestar Cross-Check Shows That the Fee Request Is Reasonable

As noted above, *see* Section IV.A, *supra*, while it has not made it mandatory, the Third Circuit has suggested that, in addition to reviewing the fee award reasonableness factors, "it is 'sensible' for district courts to 'cross-check' the percentage fee award against the 'lodestar' method." *In re Rite Aid*, 396 F.3d at 305 (citing *In re Prudential*, 148 F.3d at 333). The lodestar is calculated by multiplying the number of hours worked by the hourly rates of counsel. The

proposed percentage of the recovery award is then divided by the lodestar to yield the "lodestar multiplier." *In re AT & T Corp.*, 455 F.3d at 164. "The court may then multiply the lodestar calculation to reflect the risks of nonrecovery, to reward an extraordinary result, or to encourage counsel to undertake socially useful litigation." *In re Aetna Inc. Secs. Litig.*, No. MDL 1219, 2001 WL 20928, at *15 (E.D. Pa. Jan. 4, 2001) (citing *In re Ikon*, 194 F.R.D. at 195).

The lodestar cross-check however, "does not trump the primary reliance on the percentage of common fund method." *In re Rite Aid*, 396 F.3d at 307. Moreover, "[t]he lodestar cross-check calculation need entail neither mathematical precision nor bean-counting. The district courts may rely on summaries submitted by the attorneys and need not review actual billing records. . . . [T]he resulting multiplier need not fall within any pre-defined range, provided that the District Court's analysis justifies the award." *Id.* at 306-07 (footnotes and citations omitted). In short, a lodestar cross-check serves merely as a rough yardstick to gauge the reasonableness of a common benefit fee request.

1. Plaintiffs' Counsels' Lodestar Is Eminently Reasonable

Here, Plaintiffs' Counsels' lodestar totals \$40,559,978.60. *See* Seeger Decl. ¶ 78 & Exs. C-X (compiling supporting declarations of Co-Lead Counsel, Class Counsel, Subclass Counsel, and all other firms having performed common benefit work). The total hours expended on this litigation were 50,912.39, which included time reasonably spent investigating the claims, conferring on and formulating case strategy, drafting complaints and master administrative complaints, defending against dispositive motions, the extensive and spirited mediation (including the second round that followed the Court's January 2014 rejection of the first settlement agreement), the actual negotiation and drafting of the Settlement (including its precursors), the drafting of Rule 23(e) preliminary and final approval papers, overseeing the preparation and dissemination of Class Notice, dealing with innumerable Class Members,

preparing for implementation of the Settlement, and defending against multiple appeals (both interlocutory and from the final judgment and order approving the Settlement).

Besides the time reasonably expended in this complex MDL and its many (and sundry) moving parts, the hourly attorney rates underlying the lodestar are reasonable. Specifically, Seeger Weiss' rates range from \$985 to \$500 per hour, Seeger Decl., Addendum 1; Anapol Weiss' rates range from \$650 to \$275 per hour (Seeger, Decl., Ex. G [Weiss Decl., Ex. 1]); Podhurst Orseck's rates range from \$895 to \$405 per hour (Seeger Decl., Ex. E [Marks Decl., Ex. 1]); the Locks Law Firm's rates range from \$900 to \$550 per hour (Seeger Decl., Ex. D [Locks Decl., Ex. 1]); Levin, Sedran & Berman's rates range from \$1,350 to \$525 per hour (Seeger Decl., Ex. C [Levin Decl., Ex. 1]); and NastLaw's rates range from \$800 to \$560 per hour (Seeger Decl., Ex. F [Nast Decl., Ex. 1]).

The next question is whether these rates are consistent with prevailing rates in this District. *See generally Interfaith Cmty. Org. v. Honeywell Int'l, Inc.*, 426 F.3d 694, 705 (3d Cir. 2005) (district courts in this Circuit must look to "forum rates," save where special expertise of counsel from distant district is shown or when local counsel are unwilling to handle the case). The answer to that is yes.

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The firms' rates are current, not historical, rates. That reflects the Third Circuit's preference, *see Lanni v. New Jersey*, 259 F.3d 146, 149 (3d Cir. 2001) ("When attorney's fees are awarded, the current market rate must be used."), and counterbalances the delay in payment of counsel given the contingent nature of the services rendered. *E.g.*, *In re Unisys Corp. Retiree Med. Benefits ERISA Litig.*, 886 F. Supp. 445, 479 (E.D. Pa. 1995); *In re Schering-Plough Corp. Enhance Sec. Litig.*, No. 08-2177 DMC, 2013 WL 5505744, at *33 n.28 (D.N.J. Oct. 1, 2013) (citing cases). "[D]istrict [C]ourts in this [C]ircuit do award attorneys' fees based on the current billing rate." *In re Safety Components, Inc. Sec. Litig.*, 166 F. Supp. 2d 72, 103 n.11 (D.N.J. 2001) (internal quotations and citations omitted); *in re Ikon Office Sols., Inc., Secs. Litig.*, 194 F.R.D. 166, 195 (E.D. Pa. 2000) ("Each attorney's hourly rates were appropriately calculated by reference to current rather than historic rates.").

The prevailing market rate is ordinarily reflected in a law firm's normal billing rate. *See In re Avandia Mktg.*, *Sales Practice & Prods. Liab. Litig.*, No. 07-md-01871, 2012 WL 6923367, at *10 (E.D. Pa. Oct. 19, 2012). "The value of an attorney's time generally is reflected in his normal billing rate." *Moore v. GMAC Mortgages*, No. 07-4296, 2014 WL 12538188, at *2 (E.D. Pa. Sept. 19, 2014) (internal citation omitted). Because a "reasonable hourly rate" reflects an attorney's experience and expertise, the rates for individual attorneys vary. *Id.*

Whether the rate charged is reasonable is determined by "assessing the experience and skill of the prevailing party's attorneys and by looking at the market rates in the relevant community for lawyers of reasonably comparable skill, experience and reputation." Chakejian v. Equifax Info. Svcs, LLC, 275 F.R.D. 201, 217 (E.D. Pa. 2011) (internal citations and quotations omitted). Here, counsel has applied normal billing rates, rates that have been approved in this Circuit. E.g, In re Viropharma Inc., Sec. Litig., No. 12-2714, 2016 WL 312108, at *18 (E.D. Pa. Jan. 25, 2016) (hourly billing rates of all of plaintiff's counsel ranged from \$610 to \$925 for partners, \$475 to \$750 for of counsels, and \$350 to \$700 for other attorneys); McDonough v. Toys "R" Us, Inc., 80 F. Supp. 3d 626, 657 n.30 (E.D. Pa. 2015) (Seeger Weiss LLP's rates approved); In re Mercedes Benz Tele Aid Contract Litig., No. 07-2720, 2011 WL 4020862, at *7 (D.N.J. Sept. 9, 2011) (rates of \$500-\$855 per hour for partners and \$370 to \$475 for associates were "comparable to rates the courts have approved in similar cases in other metropolitan areas"); In re Avandia Mktg., Sales Practices & Prods. Liab. Litig., 2012 WL 6923367, at *10 (E.D. Pa. Oct. 19, 2012) ("According to a 2011 sampling of nationwide billing rates submitted by the Fee Committee, of which this Court takes judicial notice, partners at GSK's Philadelphiabased firm (Pepper Hamilton) bill up to \$825 per hour, and partners at other Philadelphia law firms have similar top hourly rates (\$900 at Cozen O'Connor, \$875 at Duane Morris, \$750 at Saul Ewing, and \$725 at Fox Rothschild)"); *In re Merck & Co., Inc. Vytorin Erisa Litig.*, No. 08-cv-285, 2010 WL 547613, at *13 (D.N.J. Feb. 9, 2010) (approving Seeger Weiss LLP's billing rates, which at the time ranged from \$345 - \$775).³⁶

2. The Requested Award Reflects a Suitable Multiplier

In performing a lodestar cross-check, it is appropriate for the Court to consider the multipliers utilized in comparable cases. *In re Rite Aid*, 396 F.3d at 307 n.17. The Third Circuit has recognized that multipliers "ranging from one to four are frequently awarded in common fund cases when the lodestar method is applied." *In re Cendant PRIDES*, 243 F.3d at 742 (quoting *In re Prudential*, 148 F.3d at 341). Here, as noted above, Plaintiffs' Counsels' combined lodestar is \$40,559,978.60. Given the requested attorneys' fees component of the award of \$106,817,220.62, the lodestar multiplier in this case is 2.6, which is well within the norm in this Circuit.

D. Plaintiffs' Counsel's Expenses Were Reasonably and Appropriately Incurred, and Are Adequately Documented

Under the common fund doctrine, "a private plaintiff, or plaintiff's attorney, whose efforts create, discover, increase, or preserve a fund to which others also have a claim, is entitled to recover from the fund the costs of his litigation[.]" *In re Diet Drugs*, 582 F.3d at 540

See also Moore v. GMAC Mortg., No. 07-4296, 2014 WL 12538188, at *2 (E.D. Pa. Sept. 19, 2014) (finding reasonable rates that "range from \$325 per hour for an associate to \$860 per hour for an experienced bankruptcy partner"); Lugus IP, LLC v. Volvo Car Corp., No. 12-2906, 2015 WL 1399175, at *6, *8 (D.N.J. Mar. 26, 2015) (finding rates "between \$274.50 and \$895.50" to be "reasonable given the experience and specialized expertise of the attorneys involved"); Mirakay v. Dakota Growers Pasta Co., No. 13-CV-4429 JAP, 2014 WL 5358987, at *14 (D.N.J. Oct. 20, 2014) (allowing rates that, "range[d] from \$350.00 to \$850.00 per hour"); Louisiana Mun. Police Employees Ret. Sys. v. Sealed Air Corp., No. 03-CV-4372 DMC, 2009 WL 4730185, at *9 (D.N.J. Dec. 4, 2009) (allowing hourly rates, "ranging from \$225 to \$830"); Sullivan v. DB Invs., Inc., No. 04-2819 SRC, 2008 WL 8747721, at *35 (D.N.J. May 22, 2008) (allowing "hourly rates of the attorneys and paralegals . . . which range[d] from \$800 to \$185 per hour") (emphasis added).

(citations omitted). "[C]ounsel for a class action is entitled to reimbursement of expenses that were adequately documented and reasonably and appropriately incurred in the prosecution of the class action." *In re Safety Components, Inc. Secs. Litig.*, 166 F. Supp. 2d 72, 108 (D.N.J. 2001) (citing *Abrams v. Liehtolier Inc.*, 50 F.3d 1204, 1225 (3d Cir. 1995)). Here, "[c]ounsel had a strong incentive to conserve their expenses, given that they were incurred with no guarantee of recovery." *In re Flonase Antitrust Litig.*, 291 F.R.D. 93, 106 (E.D. Pa. 2013).

The supporting declarations of Plaintiffs' Counsel describe the expenses incurred in connection with this litigation. *See*, *e.g.*, Seeger Decl. ¶ 96 & Addendum 2; *id.*, Ex. G (Weiss Decl. ¶ 7 & Ex. 2); *id.*, Ex. E (Marks Decl. ¶ 34 & Ex. 2); *id.*, Ex. D (Locks Decl. ¶ 23 & Ex. 2); *id.*, Ex. C (Levin Decl. ¶ 7 & Ex. 2); *id.*, Ex. F (Nast Dec. ¶ 8 & Ex. 2). These expenses are amply documented, and were reasonably incurred in the prosecution and resolution of the litigation. Plaintiffs' Counsel will briefly highlight major categories of expenditure to assist the Court in its evaluation of this application.

This litigation involved detailed scientific and medical research and calculations. For Plaintiffs' Counsel, it was absolutely necessary to understand the types of neurocognitive illnesses that would warrant compensation, to determine how many Retired NFL Football Players had suffered from these illnesses in the past, and to forecast how many Retired NFL Football Players would be diagnosed with them in the future. This is especially so given the NFL's extensive resources and its ability to marshal its own expert analyses.

The case also involved extremely complicated statistical calculations. Incidence rates of the Qualifying Diagnoses had to be calculated several decades out. This also required extensive expert analysis, which is reflected in Plaintiffs' Counsel's expenses. Moreover, as detailed above, Plaintiffs' Counsel formulated and employed an effective public relations strategy, which

kept Class Members informed, counteracted inaccurate information about the litigation and Settlement, and assisted in settlement efforts. Courts routinely allow recovery for expert fees of the sort incurred here. *E.g.*, *In re Viropharma Inc.*, *Sec. Litig.*, No. 12-2714, 2016 WL 312108, at *18 (E.D. Pa. Jan. 25, 2016) (counsel in a class action are entitled to reimbursement of expenses that were "adequately documented and reasonable and appropriately incurred in the prosecution of the class action"); *In re Flonase Antitrust Litig.*, 291 F.R.D. at 106 (costs of "experts, investigators, [and] accountants"); *Cullen*, 197 F.R.D. at 151 (expenses that were "adequately documented, proper and reasonable" reimbursed).

* * *

Lastly, as noted at the outset of this memorandum, Co-Lead Class Counsel Christopher Seeger respectfully requests that the Court entrust him with the responsibility and discretion for making the ultimate allocation of the fee award among counsel for non-objecting Plaintiffs who performed common benefit work (and incurred common benefit expenses) given that he has had overall charge of this litigation for some time now, including the formulation of case strategy, the spearheading of negotiations with the NFL Parties, and the defense of the Settlement.³⁷ Seeger Decl. ¶ 99. Courts commonly delegate such allocation authority. *E.g.*, *Milliron v. T-Mobile USA*, *Inc.*, 423 F. App'x 131, 134 (3d Cir. 2011) ("Generally, a district court may rely on lead counsel to distribute attorneys' fees among those involved[.]"); *In re Am. Inv'rs Life Ins. Co. Annuity Mktg. & Sales Practices Litig.*, 263 F.R.D. 226, 251 (E.D. Pa. 2009) (conferring "sole discretion" on Co-Lead Counsel to allocate award of fees and expenses); *In re Viropharma Inc. Sec. Litig.*, Civ. No. 12-2714, 2016 WL 304040, at *4 (E.D. Pa. Jan. 25, 2016) ("Lead

In the alternative, the Court should allow Mr. Seeger to make a proposed allocation, subject to the Court's final approval. *See* Seeger Decl. ¶ 99.

Counsel shall allocate the attorneys' fees awarded amongst Plaintiff's Counsel in a manner which it, in good faith, believes reflects the contributions of such counsel to the institution, prosecution and settlement of the Action."); *In re Fasteners Antitrust Litig.*, No. 08-MD-1912, 2014 WL 296954, at *10 (E.D. Pa. Jan. 27, 2014) (conferring responsibility on Co-Lead Counsel "for allocating and distributing counsel fees and expenses to be paid to Class Counsel"); *In re Auto. Refinishing Paint Antitrust Litig.*, MDL No. 1426, 2008 WL 63269, at *7 (E.D. Pa. Jan. 3, 2008) (noting that co-lead counsel had "directed this case from its inception and [we]re best able to assess the weight and merit of each counsel's contribution"; "allowing Counsel to allocate fees conserves the time and resources of the courts") (citing *In re Linerboard Antitrust Litig.*, 2004 WL 1221350, at *18).

As for the fee petitions filed (or to be filed) by counsel for certain objectors, Plaintiffs' Counsel respectfully propose that the Court direct a segregation or set-aside from the Attorneys' Fees Qualified Settlement Fund of whatever amount it deems appropriate pending resolution of those petitions, but otherwise permit the allocation and distribution of fees and reimbursement of expenses among counsel non-objector Plaintiffs who performed common benefit work and incurred common benefit expenses to proceed. Seeger Decl. ¶ 100.

E. The Five Percent Set-Aside Is Necessary to Support Effectuation and Administration of the Settlement

Anticipating the substantial future efforts that will be necessary for the common benefit of the Class over the coming decades, Section 21.1 of the Settlement provides:

After the Effective Date, Co-Lead Class Counsel may petition the Court to set aside up to five percent (5%) of each Monetary Award and Derivative Claimant Award to facilitate the Settlement program and related efforts of Class Counsel. These set-aside monies shall be held in a separate fund overseen by the Court. Any future petition for a set-aside will describe: (i) the proposed amount; (ii) how the money will be used; and (iii) any other relevant information (for example, the assurance that any "set-

aside" from a Monetary Award or Derivative Claimant Award for a Settlement Class Member represented by his/her individual counsel will reduce the attorney's fee payable to that counsel by the amount of the "set-aside"). No money will be held back or set aside from any Monetary Award or Derivative Claimant Award without Court approval.

ECF No. 6481-1, at 82.

The Third Circuit has approved the establishment of separate funds in settlements to provide future common benefit fees for attorneys. As the Court of Appeals explained in *In re Diet Drugs*, 582 F.3d at 532, "[t]he MDL and settlement process yielded four potential sources for fees to compensate the PMC and other attorneys who had a hand in creating common benefits for the enormous class of claimants. First . . . the District Court ordered Wyeth to withhold 9% of the payments it made to plaintiffs whose cases were transferred to the MDL and place those funds in the "MDL Fee and Cost Account," from which Class Counsel would be compensated for providing case-wide services." *Id.* Furthermore, the district court "provided for the sequestration of 6% of the value of claims in state court cases where the litigation was coordinated with the MDL. That money also went into the MDL Fee and Cost Account. The percentages were to be deducted from the fees due to the individual lawyers for the opt-out claimants who recovered against Wyeth." *Id.* Here, the holdback from a particular award will cover work done during the time period from the Effective Date of the Settlement to the player's award date. ³⁸

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A set-aside of five percent is reasonable, and consistent with holdbacks in MDLs that courts have adopted for the purpose of creating a pool out of which attorneys can be compensated for common benefit work. *E.g.*, *In re Avandia Mktg.*, *Sales Practices & Prods. Liab. Litig.*, MDL No. 1871, 2012 WL 6923367, at *1 (E.D. Pa. Oct. 19, 2012) (7% of individual settlements paid into common benefit fund); *In re Diet Drugs Prods. Liab. Litig.*, 553 F. Supp. 2d at 457-58, 491-96 (describing 9% federal and 6% state assessments later reduced to 6% and 4%, respectively); *In re Genetically Modified Rice Litig.*, MDL 06-1811, 2010 WL 716190, at *6 (E.D. Mo. Feb. 24, 2010) (6% to 8% fee assessments, plus additional 3% for costs); *In re St.* (Footnote continued . . .)

As the Court is well aware, the Settlement is to cover a period of sixty-five years. Settlement § 6.10 [ECF No. 6481-1, at 42 (Monetary Award Fund Term)]. Common benefit work in connection with the Settlement's implementation – such as the lining of BAP physicians; the drafting, submission for this Court's approval, and dissemination of Supplemental Class Notice; finalization and submission for the Court's approval of the Settlement Trust Agreement; and registration program preparations has already begun. *See* Section III.M, *supra* Seeger Decl. ¶¶ 107-08; ECF Nos. 7107, 7115, 7118.

Plaintiffs' Counsel have had (and will have) to engage in a good deal of work to ensure that Class Members timely register in order to qualify for Settlement benefits. These efforts include the finalization and dissemination of Supplemental Class Notice regarding the registration and benefits timetable, finalizing and overseeing the effectuation of registration forms, overseeing the transition of call center operations to the Claims Administrator, and continuing revisions to the Settlement website (including FAQs). Seeger Decl. ¶ 109. Other efforts are and will be expended in connection with the June 6, 2017 launch of the BAP, including the review of applications of BAP Providers and vetting candidates for retention, receiving reports on contracting with Providers in order to establish networks convenient to a majority of players by metropolitan region, and finalizing BAP procedures (including assessment

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Jude Med., Inc., MDL 1396, 2002 WL 1774232, at *2 (D. Minn. Aug.1, 2002) (6% assessment both for Federal and State cases); In re Baycol Prods. Litig., MDL 1431, 2002 WL 32155266, at *4 (D. Minn. June 14, 2002) (6% assessment for Federal cases and qualifying State cases); In re Protegen Sling and Vesica System Prods. Liab. Litig., MDL 1387, 2002 WL 31834446, at *1, *3 (D. Md. Apr. 12, 2002) (9% assessment for Federal cases and 6% assessment for State cases); In re Rezulin Prods. Liab. Litig., MDL No. 1348, 2002 WL 441342, at *1 (S.D.N.Y. Mar. 20, 2002) (6% withholding in federal cases, 4% in participating state cases); 4 Newberg on Class Actions § 14:9 ("Most [MDL] courts have assessed common benefit fees at about a 4-6% level, generally 4% for a fee and 2% for costs."); Paul D. Rheingold, Litigating Mass Tort Cases § 7:35 (2010) ("[P]ercentages awarded for common funds in recent MDLs . . . were in the 4-6% range.") (citation omitted).

scheduling and Supplemental Benefits). *Id.* ¶ 110. Still other work has pertained or will pertain to the MAF: the review of applications of MAF Physicians and vetting candidates for retention, finalizing claims forms and processes, and finalizing appeals forms and processes. *Id.* As these BAP Providers and MAF Physicians retire over time, or, for other reasons, become unable or unwilling to continue to serve in those capacities, over the next 65 years, they will have to be replaced, involving additional common benefit work by Plaintiffs' Counsel. *Id.*

In the course of all this, as Supplemental Notice is prepared and registration begins, and continuing over the lengthy period of the Settlement's life, attorneys will continue to spend time and effort to coordinate and work with the Claims Administrator, the BAP Administrator, Lien Resolution Administrator, the Settlement Trustee, and the Court to ensure that Retired NFL Football Players and Derivative Claimants receive their benefits. Plaintiffs' Counsel will also be required, over the next 65 years, to consult with experts to stay abreast of medical developments. *Id.* ¶ 111.

Plaintiffs' Counsel will also have work to perform in connection with the administrative appeals process. They will be called upon to provide assistance for all claimants who have not retained lawyers, and in some instances to assist counsel representing individual Plaintiffs. Co-Lead Class Counsel have standing to appeal as part of the Settlement. Settlement § 9.50 [ECF No. 6481-1, at 51]. The Settlement provides rights to appeal various decisions, including denial of registration, denial of Monetary Awards, and the amount of a Monetary Award. *Id.* Plaintiffs' Counsel will also be called upon to provide assistance for all claimants who have not retained lawyers, and in some instances to assist counsel representing individual plaintiffs. This work will continue over the 65-year life of the Settlement. Seeger Decl. ¶ 112.

In this respect, Plaintiffs' Counsel must retain the Appeals Advisory Panel (composed of five neurologists/board certified neurospecialists) and Appeals Advisory Panel Consultants (three neuropsychologists) by April 7, 2017. *Id.* ¶ 113. This body is charged, at the outset, with reviewing diagnoses made prior to the Effective Date of the Settlement. Settlement § 6.43 [ECF No. 6481-1, at 37-38]. These physicians will be advising the Special Masters and the Court. Seeger Decl. ¶ 113. Thus, this work is critical because it will set the tone for the administration of the Settlement. *Id.* As these physicians retire or for other reasons become unable or unwilling to serve on the Appeals Advisory Panel or as Appeals Advisory Consultants, they will need to be replaced, involving additional common benefit work by Plaintiffs' Counsel. *Id.*

The Settlement requires that the Parties revisit the science every ten years to discuss in good faith possible prospective modifications to the definitions of Qualifying Diagnoses and/or the protocols for making Qualifying Diagnoses, in light of generally accepted advances in medical science. *Id.* § 6.6 [ECF No. 6481-1, at 35]. This too, is anticipated future common benefit work to be performed by Plaintiffs' Counsel.

Plaintiffs' Counsel will also need to establish, review, and conduct ongoing auditing and financial reporting on the BAP and MAF programs. *Id.* § 10.3 [ECF No. 6481-1, at 59-62]. Finally, Plaintiffs' Counsel will need to monitor and ensure the NFL Parties' compliance with the funding and the maintenance of the targeted reserves for the MAF and BAP, as well as to monitor the Settlement Trust and Trustee under Article 23 of the Settlement. Seeger Decl. ¶ 116.

The requested set-aside thus provides a source to facilitate fair and reasonable compensation for these and other necessary services of Plaintiffs' Counsel for the benefit of the Class over the coming years. Although Plaintiffs' Counsel cannot fully or accurately predict the

scope or extent of those necessary services, it is clear that such services will be required to some extent.

Moreover, given the 65-year length of this Settlement, at some point Plaintiffs' Counsel may need to transition the responsibilities for representing the Class and overseeing the implementation of the Settlement to other law firms. Indeed, it is quite possible (if not likely) that this need will rise more than once. The set-aside will also ensure that prospective incoming firms have the financial incentive to undertake these responsibilities by making sure that there is a pool of funds to compensate them for getting up to speed and taking up the mantle.

In accordance with the Settlement, any set-aside from a Monetary Award or Derivative Claimant Award for Class Members represented by their individual counsel will reduce the attorneys' fee payable to that counsel by the amount of the holdback. Seeger Decl. ¶ 103. Should the Court approve the proposed 5% set-aside, Plaintiffs' Counsel will submit, within thirty days of the Court's Order, a detailed plan of administration, including how the funds created from the holdbacks will be pooled and maintained, and how any attorney will apply for compensation for post-Settlement work performed. *Id.* ¶ 119.

F. Incentive Awards for Subclass Representatives

Finally, Petitioners request Case Contribution Awards (often referred to as incentive or service awards) of \$100,000 for each of the Class Representatives – Messrs. Swinson, Wooden, and Turner (or, where applicable, their estates). These awards will be taken from the \$112,500,000 award requested herein and thus will not increase the NFL's liability for fees, costs, and expenses. *See* Seeger Decl. ¶ 120 n.10; *cf. In re Transpacific Passenger Air Transp.*Antitrust Litig., No. C 07-05634 CRB, 2015 WL 4776946, at *2 (N.D. Cal. Aug. 13, 2015) ("Incentive awards . . . typically come from the class fund.").

There is ample authority in this District and elsewhere for such incentive awards. *E.g.*, *In re Linerboard Antitrust Litig.*, No. 98-5055, 2004 WL 1221350, at *18 (E.D. Pa. June 2, 2004) ("Like the attorneys in this case, the class representatives have conferred benefits on all other class members and they deserve to be compensated accordingly."); *Tenuto v. Transworld Sys.*, *Inc.*, No. 99-4228, 2002 WL 188569, at *5 (E.D. Pa. Jan. 31, 2002) (incentive award appropriate where class representative "actively assisted counsel in the prosecution of this litigation to the benefit of the class"). ³⁹

For Subclass 1, Plaintiff Swinson served as the original representative. As an integral part of his work as a representative, he met with Subclass 1 counsel Arnold Levin. Seeger Decl. ¶ 121. A retired player who was not diagnosed with neurocognitive impairment, Mr. Swinson had standing to assert the rights of Subclass 1 members. During the negotiations of settlement terms in the summer of 2013, Co-Lead Class Counsel and Mr. Levin conferred with Mr. Swinson concerning the terms of the proposed Settlement. *Id.* Mr. Swinson was aware of and had agreed to the terms of the settlement and he reviewed drafts of the Term Sheet before it was executed. Given Mr. Swinson's passing, Plaintiffs' Counsel accordingly request that the proposed incentive award be paid to Mr. Swinson's estate. *Id.* ¶ 122 n.11.

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See also Hadix v. Johnson, 322 F.3d 895, 897 (6th Cir. 2003) (noting that courts make incentive awards "to class representatives for their often extensive involvement with a lawsuit" and that "[n]umerous courts have authorized incentive awards") (citing cases); Briggs v. PNC Fin. Servs. Grp., Inc., No. 1:15-CV-10447, 2016 WL 7018566, at *2 (N.D. Ill. Nov. 29, 2016) ("Incentive awards serve the important purpose of compensating plaintiffs for the time and effort expended in assisting the prosecution of the litigation, the risks incurred by becoming and continuing as a litigant, and any other burdens sustained by the plaintiffs.") (citing cases); In re Residential Doors Antitrust Litig., Nos. 93-3744, 96-2125, 1998 WL 151804, at *11 (E.D. Pa. Apr. 2, 1998) (incentive awards granted to four class representatives whose actions "resulted in a significant benefit to the class"); Rodriguez v. Infinite Care, Inc., No. 15-1824, 2016 WL 6804430, at *10 (E.D. Pa. Nov. 17, 2016) (incentive payment awarded where representative plaintiff "devoted time and energy to the litigation, including assisting with discovery and at the mediation").

After the Term Sheet was announced, and following Mr. Swinson's passing, Plaintiff Wooden became the proposed Subclass 1 representative. ECF Nos. 6423-8 (¶4), 6423-10 (¶ 6). Mr. Wooden played professional football in the NFL from 1996-2004. ECF No. 6423-8 (¶ 1) During his NFL career, he experienced repeated traumatic head impacts, and since his retirement from football he has experienced neurological symptoms, including migraine headaches, sleep problems, concentration issues, and mood swings. *Id.* Mr. Wooden has not been diagnosed with any neurocognitive impairment, but is at increased risk of developing a range of neuromuscular and neurocognitive diseases associated with mild traumatic brain injuries and as alleged in the Complaints, such as dementia, Alzheimer's Disease, Parkinson's Disease, or ALS, as a proximate result of having played professional football in the NFL. *Id.*

On January 24, 2012, Mr. Wooden filed a complaint, through his attorney, Class Counsel Steven Marks of Podhurst Orseck, against the NFL Parties in the Southern District of Florida (*Wooden v. Nat'l Football League*, No. 1:12-cv-20269-JEM). *Id.* ¶ 2. That action was transferred to this MDL on February 23, 2012. Thereafter, on June 7, 2012, a Master Administrative Class Action Complaint for Medical Monitoring was filed on his behalf in the MDL, a complaint whose filing he authorized. *Id*.

Throughout these proceedings, Mr. Wooden followed the litigation closely. $Id. \P 3$. He had various meetings, telephone conferences, and email exchanges with Mr. Marks about the status of proceedings, the NFL Parties' preemption motions and the oral argument on the motions, among other things. Id.

After meeting with Subclass Counsel Arnold Levin at the latter's offices in Philadelphia, Mr. Wooden agreed to participate as the proposed representative of Subclass 1. Id. ¶ 4. Mr. Wooden monitored the progress of settlement negotiations, and he reviewed with counsel drafts

of the settlement agreements and exhibits thereto. *Id.* ¶¶ 5, 7. In addition, he reviewed numerous press articles about the litigation and the settlement. *Id.* ¶¶ 3, 7. Since final approval of the Settlement, Mr. Wooden has remained involved, frequently talking to other Retired NFL Players and family members to provide information about the Settlement. Seeger Decl. ¶ 125.

Subclass 2 was represented by Kevin Turner. This subclass consisted of players who were diagnosed with injuries associated with concussive and sub-concussive head trauma. ECF No. 6423-11 (¶ 5). Mr. Turner played professional football in the NFL as a fullback from 1992-1999. In June 2010, at the age of 41, he was diagnosed with ALS. ECF No. 6423-7 (¶¶ 1-2). As this degenerative disease rapidly progressed, Mr. Turner required around-the-clock care and assistance with even the simplest, most basic daily activities, such as bathing, shaving, and brushing his teeth. Mr. Turner had three young children. *Id*.

On January 20, 2012, Mr. Turner, through his attorney, Class Counsel Steven Marks, filed a complaint against the NFL Parties in the Southern District of Florida (*Jones v. Nat'l Football League*, No. 1:11-cv-24594-JEM). *Id.* ¶ 5. That action was transferred to this MDL on February 14, 2012. *Id.* On July 11, 2012, Mr. Turner filed a Short-Form Complaint against the NFL Parties. *Id.*; ECF No. 1318. In that complaint, he incorporated by reference the allegations of the Master Administrative Long-Form Complaint and specifically alleged that he had sustained repetitive, traumatic sub-concussive or concussive head impacts during NFL games and/or practices, and that he suffered from symptoms of brain injury caused by these head impacts.

Like Mr. Wooden, Mr. Turner followed the litigation closely. ECF No. 6423-7 (¶ 6.) He had numerous meetings, telephone conferences, and email exchanges with Mr. Marks about the status of proceedings, the NFL Parties' preemption motions and the oral argument on same. *Id.*

Beginning in about July 2013, Mr. Marks informed Mr. Turner of the settlement negotiations between the Plaintiffs and the NFL Parties and his possible representation of Subclass 2 members. *See id*.

In August, 2013, Mr. Turner met with Subclass Counsel Dianne Nast at her offices in Philadelphia, regarding his prospective representation of Subclass 2 members in the proposed class action. *Id.* Mr. Marks was present at that meeting, and the three discussed in detail the impending class settlement. After the meeting, counsel determined that Mr. Turner had standing to assert the rights of Subclass 2 members and that he was an adequate representative for them. Mr. Turner monitored the progress of settlement negotiations, and he reviewed drafts of the settlement agreements. *Id.* ¶ 7-9. In addition, he reviewed numerous press articles about the Settlement. *Id.* ¶ 7. Mr. Turner passed away on March 24, 2016, shortly before the Third Circuit affirmed this Court's final approval of the Settlement. Seeger Decl. ¶ 129. Plaintiffs' Counsel accordingly request that the proposed Case Contribution Award be paid to Mr. Turner's estate. *Id.* ¶ 129 n.12.

In short, Messrs. Swinson, Wooden, and Turner were actively engaged in this litigation, including the settlement negotiations, and they contributed valuable efforts on behalf of the absent members of their respective Subclasses. Their contributions should be recognized accordingly. *See In re Plastic Tableware Antitrust Litig.*, No. 94-CV-3564, 1995 WL 723175, at *2 (E.D. Pa. Dec. 4, 1995) ("Payments to class representatives may be . . . treated as a reward for public service and for the conferring of a benefit on the entire class"); *Cullen*, 197 F.R.D. at 145 ("Courts routinely approve incentive awards to compensate named plaintiffs for the services they provide and the risks they incurred during the course of the class action litigation.") (citation and internal quotation marks omitted).

To be sure, the amount of the incentive award requested, \$100,000, is higher than that awarded in typical cases. As the Court is well aware, though, this was no ordinary or routine case. This has been an extremely high-profile litigation, and at times the Class Representatives were subjected to attacks by objectors and in the press. Moreover, the Class Representatives here were much more actively involved in the settlement process and the overall outcome than are class representatives in more routine litigations. In any event, other courts have occasionally rendered high incentive awards. E.g., King Drug Co. of Florence v. Cephalon, Inc., Civ. No. 06cv-01797-MSP, 2015 WL 12843830 at *5 (E.D. Pa. Oct. 15, 2015) (\$500,000 collective award for six plaintiffs); In re Graphite Electrodes Antitrust Litig., MDL No. 1244 (E.D. Pa. Order of Sept. 8, 2003) (\$80,000); Brotherton v. Cleveland, 141 F. Supp. 2d 907, 914 (S.D. Ohio 2001) (\$50,000). The amount requested for the three Class Representatives here is particularly warranted here, given the historic nature of Settlement, the tremendous work that went into achieving it, the Class Representatives' active involvement (both with their lawyers and their peers), the magnitude of the relief obtained, and the great number of Class Members who stand to benefit.

V. CONCLUSION

For the foregoing reasons, the Court should grant the instant Petition and (i) award the full \$112.5 million in fees and reimbursement of costs and expenses to Plaintiffs' Counsel that the NFL Parties agreed to separately pay; (ii) entrust to Co-Lead Class Counsel Christopher Seeger the responsibility for allocating the attorneys' fees and costs and expenses award among Plaintiffs' Counsel; (iii) establish a five-percent set-aside from MAF awards to create a fund pool for the purpose of allowing counsel to seek compensation for future work to be performed in the implementation of the Settlement, and (iv) grant Case Contribution Awards of \$100,000.00 to the Subclass Representatives (or, as applicable, their estates).

Date: February 13, 2017

Respectfully submitted,

s/ Christopher A. Seeger Christopher A. Seeger Seeger Weiss LLP 77 Water Street New York, New York 10005 cseeger@seegerweiss.com (T) 212-584-0700 (F) 212-584-0799

Co-Lead Class Counsel

Sol Weiss ANAPOL WEISS One Logan Square 130 N. 18th St. Ste. 1600 Philadelphia, PA 19103 (T) 215-735-1130 (F) 215-735-2024 sweiss@anapolweiss.com

Co-Lead Class Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on all counsel of record via the Court's ECF system on February 13, 2017.

s/ Christopher A. Seeger Christopher A. Seeger

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO:

ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

CIVIL ACTION NO: 2:14-cv-00029-AB

DECLARATION OF CHRISTOPHER A. SEEGER IN SUPPORT OF CO-LEAD CLASS COUNSELS' PETITION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF COSTS AND EXPENSES, ADOPTION OF A SET-ASIDE OF FIVE PERCENT OF EACH MONETARY AWARD AND DERIVATIVE CLAIMANT AWARD, AND CASE CONTRIBUTION AWARDS FOR CLASS REPRESENTATIVES

Christopher A. Seeger declares, pursuant to 28 U.S.C. § 1746, based upon his personal knowledge, information and belief, the following:

1. I am fully familiar with the matters set forth herein, including the procedural history of this litigation and the class-wide settlement that this Court approved. I submit this Declaration in support of the consolidated petition of Class Counsel for a global award of attorneys' fees and reimbursement of expenses, the adoption of a set-aside of five percent of each monetary award and derivative claimant award, and case contribution (*i.e.*, incentive) awards for the Class Representatives.

Overview

- 2. I was appointed by the Court in In re National Football League Players' Concussion Injury Litigation, MDL No. 2323 (E.D. Pa.) on April 25, 2012, to serve as Plaintiffs' Co-Lead Counsel, and as a member of the Plaintiffs' Executive Committee ("PEC") [ECF No. 64]. I was the principal negotiator and architect of the Class Action Settlement dated June 25, 2014 between the Plaintiff Class and the Defendants National Football League and NFL Properties LLC (collectively, the "NFL Parties") [ECF No. 6073-2], which was preliminarily approved on July 7, 2014 [ECF No. 6084, ¶ 3(b)], and thereafter amended on February 13, 2015 [ECF No. 6481-1] (the "Settlement"). Prior to this litigation, I had served as plaintiffs' lead counsel or as a member of the plaintiffs' executive committee or steering committee in dozens of cases. See ECF No. 6423-3, ¶ 2-4. In particular, I served as lead plaintiffs' negotiator for multiple large settlements, including the *Vioxx* mass personal injury settlement in MDL No. 1657 in the Eastern District of Louisiana, totaling \$4.85 billion; the DePuy Orthopaedics Inc., ASR Hip Implant Products, MDL 2197 in the Northern District of Ohio settlement, totaling nearly \$2.5 billion; and the first two Zyprexa mass personal injury settlements in MDL No. 1596 in the Eastern District of New York, which resulted in a total \$1.2 billion payout.
- 3. The Court granted final approval to the Settlement on April 22, 2015. ECF Nos. 6509, 6510. On December 12, 2016, following years of hard-fought litigation, negotiation, and ultimately, numerous challenges on appeal, the United States Supreme Court denied further review of the Settlement. By its terms, the Settlement became effective on January 7, 2017, the day after the expiration of the time to seek rehearing of the denials of petitions for writ of *certiorari*. *See* Settlement § 2.1(j) [ECF no. 6481-1, at 12-13].

- 4. Since the inception of this litigation in 2011, Plaintiffs' Counsel vigorously litigated this case, and labored to achieve a groundbreaking settlement that will benefit a class estimated at over 20,000 Retired National Football League ("NFL") Players. Beginning over five years ago, Plaintiffs' Counsel undertook this matter, in the face of long odds and significant risk, on a wholly contingent basis, dedicating their time, money and energy on behalf of Retired NFL Football Players and their families.
- 5. Following the formation of this multidistrict litigation ("MDL"), the Court appointed the PEC, me, another Plaintiffs' Co-Lead Counsel (Sol Weiss of the firm then known as Anapol Schwartz, and now known as Anapol Weiss), and the Plaintiffs' Steering Committee ("PSC") composed of various counsel for Plaintiffs in the constituent cases in this MDL [ECF No. 72]. All of the attorneys appointed to the PEC and the PSC demonstrated extensive experience in and impressive credentials for representing plaintiffs alleging personal injuries in aggregate litigation, including multidistrict litigation.
- 6. The groundbreaking global resolution in these proceedings was the result of many months of intense, hard-fought, arm's-length negotiations between the parties, encompassing collectively thousands of hours of professional time with input from medical, actuarial, and other experts.
- 7. This Settlement establishes a \$75 million Baseline Assessment Program ("BAP") designed to determine the existence and extent of neurocognitive impairment in living Retired NFL Football Players. In the event they are found to suffer from moderate neurocognitive impairment ("Level 1 Neurocognitive Impairment"), they will be entitled to

I employ the term used in the Settlement. *See* Settlement § 2.1(ffff) [ECF No. 6481-1, at 18].

supplemental benefits in the form of medical treatment and/or evaluation, including counseling and pharmaceutical coverage.

- 8. The Settlement also establishes an *uncapped* Monetary Award Fund ("MAF") to provide much-needed relief to (i) seriously injured retired players with a "Qualifying Diagnosis" (*see* ECF No. 6481-1, at 17, 106-10) [Settlement § 2(yyy) & Ex. A-1]), of Level 1.5 Neurocognitive Impairment (early dementia), Level 2 Neurocognitive Impairment (moderate dementia), Alzheimer's Disease, Parkinson's Disease, and/or Amyotrophic Lateral Sclerosis ("ALS"); (ii) the representatives of certain deceased players who received a Qualifying Diagnosis while living; and (iii) the representatives of certain players who died before the date of Final Approval of the Settlement, April 22, 2015, and were diagnosed postmortem with Chronic Traumatic Encephalopathy ("CTE"); and their families. In order to receive a Monetary Award, Class Members will not be required to prove that their injuries were caused by the NFL Parties, let alone concussions suffered during professional football play.
- 9. Another Settlement component is a \$10 million Education Fund to promote safety and injury prevention in football players, including youth football players, and to educate Retired NFL Players regarding the NFL's medical and disability benefits programs and initiatives.
- 10. Significantly, the Settlement preserves Retired NFL Football Players' rights to pursue claims for worker's compensation and any and all medical and disability benefits under any applicable collective bargaining agreement ("CBA"), including the NFL's Neuro-Cognitive Disability Benefit. Settlement § 18.6 [ECF No. 6481-1, at 79-80]. In addition, the Settlement will ensure that the provision included in Article 65 of the current CBA, Section 2 –

requiring that players execute a release of claims and covenant not to sue in order to be eligible for the NFL's Neuro-Cognitive Disability Benefit – will not be enforced or used against Class Members in connection with the Settlement. *Id.* § 29.1 [ECF No. 6481-1, at 96].

11. This Settlement represents the resolution of more than 5,000 lawsuits in this MDL and thousands of additional Retired NFL Football Players' claims against the NFL Parties for injunctive relief, medical monitoring, and compensation for the long-term health risks of mild traumatic brain injuries and other losses suffered by them, allegedly as a result of the NFL Parties' tortious conduct. Considering the volume of the news reports and associated public attention concerning the Settlement, as well as the state-of-the-art class notice program, the reaction of the Class was extremely favorable. Fewer than one percent of Class Members filed requests for exclusion from the Class and over 12,000 potential Settlement beneficiaries have signed up to receive further notices regarding the Settlement and claims process to date. Since the registration period opened on February 6, 2017, the Settlement Claims Administrator has received over 6,100 registrants.

Procedural History of the Litigation

12. This MDL was established on January 31, 2012 when the Judicial Panel on Multidistrict Litigation ("JPML") centralized several actions in this District for coordinated pretrial proceedings, pursuant to 28 U.S.C. § 1407. *See In re Nat'l Football League Players' Concussion Injury Litig.*, 842 F. Supp. 2d 1378 (J.P.M.L. 2012) (MDL No. 2323). The JPML found that these cases "share[d] factual issues arising from allegations against the NFL stemming from injuries sustained while playing professional football, including damages resulting from the permanent long-term effects of concussions while playing professional football in the NFL" and that "centralization under Section 1407 in the Eastern District of

Pennsylvania w[ould] serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation." *Id.* at 1379.

- 13. At the time of argument before the JPML in January 2012, there were sixteen potentially related actions pending against the NFL Parties. *Id.* at 1378. Soon thereafter, 123 cases were filed directly in the MDL or removed from Pennsylvania state court to this Court, and the JPML transferred an additional 163 cases to the MDL.
- 14. At the first MDL status conference on April 25, 2012, the Court appointed me as Plaintiffs' Co-Lead Counsel for the MDL proceedings, and requested that another co-lead counsel from a Philadelphia-based firm also be selected. Case Mgmt. Order ("CMO") No. 2 [ECF No. 64]. Plaintiffs selected, and the Court confirmed, the appointment of Sol Weiss of Anapol Weiss as Co-Lead Counsel. CMO No. 3 [ECF No. 72].
- 15. Plaintiffs also created and the Court appointed the PEC and PSC, composed of several of the counsel for Plaintiffs in the cases pending before the Court. ECF Nos. 64, 72. The PEC included counsel who were ultimately also appointed as Class Counsel, Gene Locks and Steven C. Marks, and the PSC included those ultimately also appointed as Subclass Counsel, Arnold Levin and Dianne M. Nast. The appointments of Mr. Weiss and me ultimately changed from Co-Lead Counsel to Co-Lead Class Counsel. ECF No. 6084. The Court confirmed these appointments in the Final Approval of the Settlement on April 22, 2015 [ECF No. 6510].
- 16. As part of its initial case management orders, the Court determined that the NFL Parties' threshold federal preemption defense under Section 301 of the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 185, should be addressed before proceeding to the merits of Plaintiffs' claims. CMO No. 2 [ECF No. 64] at 2-3; CMO No. 4 [ECF No. 98] ¶ 3.

Accordingly, the Court stayed formal discovery. *See* ECF No. 3384. The Court established a schedule for Plaintiffs to file Master Administrative Complaints and for the NFL Parties to brief the threshold legal issue of whether Plaintiffs' claims were preempted by federal labor law. ECF No. 64.

- 17. Plaintiffs' Counsel researched, drafted, and filed a Master Administrative Long-Form Complaint, ECF No. 83, and a Master Administrative Class Action Complaint for Medical Monitoring, ECF No. 84, on June 7, 2012. Plaintiffs then filed an Amended Master Administrative Long-Form Complaint, ECF No. 2642, on July 17, 2012.
- 18. Plaintiffs' Counsel conducted extensive research in connection with the filing of these complaints, preparing 50-state surveys on medical monitoring, preemption, tolling, and fraudulent concealment. Plaintiffs' Counsel also closely examined the worker's compensation laws of the 50 states during this time.
- 19. The NFL Parties filed their motions to dismiss the operative complaints on federal preemption grounds on August 30, 2012, ECF Nos. 3589, 3590. Plaintiffs' Counsel prepared and filed opposition papers to the motions, ECF Nos. 4130-34. The NFL Parties filed reply papers, ECF Nos. 4254-55, and Plaintiffs' sur-replies closed the briefing, ECF Nos. 4589, 4591.
- 20. Because of the importance of the preemption motions, Plaintiffs' Counsel spent significant time analyzing, researching, drafting, and discussing their opposition to the NFL Parties' motions. Plaintiffs' Counsel also conducted several mooting sessions, which included leading academics and practitioners in the field, to prepare for oral argument. The Court heard oral argument on the motions on April 9, 2013. ECF Nos. 4737-38.

21. On a separate track, mindful of the pending and anticipated actions in this MDL, as well as the pending putative class claims on behalf of all Retired NFL Football Players, Plaintiffs' leadership carefully evaluated the potential to resolve Plaintiffs' claims on a class basis. In doing so, we took into consideration the significance and severity of the alleged injuries, the science issues relative to causation and mild traumatic brain injuries, and our ability to achieve "full value" compensation for serious injuries related to concussions and subconcussive hits through settlement, without the need for trials and appeals.

22. In light of the fact that so many former players were extremely ill and dying, we weighed the inherent delays and costs involved in protracted litigation, as well as the risks of litigation, including the array of potential defenses of the NFL Parties, particularly preemption, but also statutes of limitations, statutory employer, and assumption of risk, among others, and the difficulties in proving general and specific causation. Given the Court's determination at the outset, even before discovery, to address the threshold question of whether the Plaintiffs' claims were preempted under federal law (CMO No. 2 at 2 [ECF No. 64]), there was a real threat to the viability of Plaintiffs' case. This evaluation involved the substantial abilities, as well as the committed efforts, of Plaintiffs' legal and science teams.

Settlement Discussions and Mediation

23. Accordingly, after thoroughly researching the state of the science regarding injuries associated with concussions and sub-concussive hits, we approached the NFL Parties about the possibility of settlement. The parties thereafter engaged in discussions regarding settlement structures and injury categories. We had demanded that a broad range of additional alleged injuries be compensated in the Settlement. The Defendants held firm in their

These defenses include both those that the NFL had already asserted or which it advised Class Counsel that it intended to invoke.

willingness to compensate only objectively verifiable and serious injuries, which are supported by the available science. They seemed willing to accept the risk that opt-outs might pursue those additional conditions in litigation outside of the Settlement. Importantly, although not every Retired NFL Player has been diagnosed with a qualifying injury today, all of the Retired Players are eligible to seek a monetary award if and when their symptoms progress to a compensable level and a supplemental monetary award if their condition worsens after that.

- 24. At the Court's urging, the Parties began to discuss settlement in Jan. 2013, and although Plaintiffs' Counsel worked intensely, progress was slow. In early July 2013, in anticipation of its decision on the preemption motions, the Court "held an informal exploratory telephone conference with lead counsel [and directed the] parties, through their lead counsel, to engage in mediation to determine if consensual resolution [wa]s possible." ECF No. 5128. The Court appointed retired United States District Judge Layn R. Phillips as the mediator, and directed that Judge Phillips report back to the Court on or before September 3, 2013 as to the results of the mediation. *Id*.
- 25. Co-Lead Counsel formed a negotiating committee, consisting of myself; Messrs. Weiss, Levin, Locks, and Marks; and Ms. Nast (Mr. Levin and Ms. Nast being the respective counsel for the two Subclasses; *see* ¶¶ 121-29, *infra*). ECF Nos. 6423-3 ¶ 27, 6423-10 ¶¶ 5, 9, and 6423-11 ¶¶ 6, 9. Plaintiffs' negotiating team was aware of the ramifications of *Amchem Products, Inc. v. Windsor*, 521 U.S. 591 (1997), and its progeny namely, the necessity to ensure adequate and unconflicted representation for all Class Members, and the need for the creation of subclasses and separate representation for those with present injuries and those without present injuries. ECF Nos. 6073-4 ¶¶ 7, 11; 6423-3 ¶¶ 11, 12, 29; 6423-6 ¶ 7.

- 26. The members of Plaintiffs' negotiating team were fully prepared to negotiate with the NFL Parties' lawyers. As further detailed below, Plaintiffs' Counsel thoroughly investigated and analyzed the claims brought in the operative Complaints, retained medical and economic experts, and were well-versed in the relevant medical literature and related issues. Additionally, having completed extensive briefing on the NFL Parties' preemption motions to dismiss, we had a thorough appreciation of the merits of the threshold preemption arguments. See ECF No. 6423-3 ¶¶ 19-22, 25, 30, 32.
- 27. As part of their due diligence and consistent with their responsibilities to the Class and Subclasses, Plaintiffs' Counsel engaged multiple experts in the fields of medicine, namely neurology, neuropsychology, and neuropsychiatry; actuarial science; economics; claims administration; and lien identification and satisfaction to determine, develop, and test an appropriate settlement framework to evaluate and meet the needs of Retired NFL Football Players suffering from or at increased risk for the claimed injuries related to neuromuscular and neurocognitive impairment, and their family members. *See*, *e.g.*, ECF Nos. 6423-3 ¶¶ 32, 43; 6423-17 ¶¶ 6-9; 6423-18 ¶ 21; 6423-19 ¶¶ 19, 25, 27. The economists and actuaries assisted in modeling the possible disease incidence and adequacy of funding for the Monetary Award levels contained in the Settlement. *See* ECF No. 6423-3 ¶ 30.
- 28. For nearly two months, the Plaintiffs' negotiating team worked at an intense and grueling pace, expending, collectively, thousands of professional hours and often working around the clock to negotiate a fair and reasonable class settlement on behalf of all Retired NFL Football Players, their Representative Claimants, and Derivative Claimants.³

I employ the latter two terms as used in the Settlement. *See* Settlement §§ 2.1(ee) & (eeee), ECF No. 6481-1, at 12, 18].

- 29. Starting before mediation began, and expanding and refining their work through the mediation process, Plaintiffs' Counsel expended significant time and effort thoroughly researching the medical and scientific issues implicated by Plaintiffs' claims, including, among others, the science of concussions and mild traumatic brain injuries, the effects of subconcussive hits, the neurocognitive and neuromuscular injuries and progression of disease associated with such brain injuries, the epidemiology of the Qualifying Diagnoses, and the methods of diagnosis and treatment for the Qualifying Diagnoses. In doing so, and guided by our medical and scientific experts, Plaintiffs' Counsel conducted a comprehensive review of peer-reviewed medical literature to support settlement discussions and negotiations. Plaintiffs' Counsel further researched and investigated the appropriate settlement structures to effectively compensate these diseases.
- 30. Beyond their work with medical and scientific experts, Plaintiffs' Counsel also worked closely with economic and actuarial experts to hone appropriate incidence rates, compensation structures, and funding models for the Settlement.
- 31. Plaintiffs' Counsel, as well as Plaintiffs' experts, were greatly aided in their understanding of Retired NFL Football Players' head injuries, and the incidence of neurocognitive ailments, through the creation of the Retired Player database. Analyzing the records of over 2,000 Retired NFL Players, Plaintiffs' Counsel essentially created an epidemiological study of their clients. This database required extensive professional work.
- 32. The database was vitally important to the entire negotiation process because it enabled Plaintiffs' Counsel to appropriately characterize disease and symptom occurrence across the broader Retired NFL Football Player population. The database also served as a

useful cross-check of the published epidemiology of neurocognitive and neuromuscular diseases reportedly associated with NFL football play.

- 33. In addition to the vigorous conventional legal work that went into this case, early in the litigation, Plaintiffs' Counsel organized and oversaw a communications plan for the litigation. As the litigation including the settlement discussions and formal mediation steadily unfolded, Plaintiffs' Counsel were concerned about the dissemination of incomplete or misleading information to Plaintiffs, the broader player community, and the public at large. Plaintiffs' Counsel thus worked to ensure that all were apprised of the relevant factual, medical, and legal issues encompassed by Plaintiffs' claims and the litigation. Given the broad interest in the litigation and its associated issues, Plaintiffs' Counsel worked regularly, both before and after the Settlement was announced, to provide full and complete information to all interested parties.
- 34. Judge Phillips actively supervised numerous mediation sessions, presiding over dozens of in-person and telephonic meetings with counsel for both sides, either jointly or in separate groups. He also met with the parties' respective experts, without counsel present, to get answers to questions he had regarding the scientific, actuarial, and financial aspects of the settlement. *See* ECF No. 6073-4 (Phillips Decl.) ¶¶ 2 & 5-7; ECF No. 6423-6 ¶ 4. The mediation process culminated in the execution of a Term Sheet on August 29, 2013.

Initial Settlement Agreement

35. That day, the Court announced that "in accordance with the reporting requirements in [its] order of July 8, 2013, the Honorable Layn Phillips, the court-appointed mediator, [had] informed [the Court] that the plaintiffs and the NFL defendants had signed a Term Sheet incorporating the principal terms of a settlement." ECF No. 5235. In its Order, the

Court reserved judgment on the fairness and adequacy of the settlement pending the Settling Parties' presentation to the Court of the settlement agreement, along with motions for preliminary and, eventually, final approval. *Id*.

- 36. As the Court noted, during their initial negotiations, the Parties did not discuss fees until after the key terms of the Settlement including the total size of the original, capped MAF were publicly announced on the docket. *In re Nat'l Football League Players' Concussion Injury Litig.*, 307 F.R.D. 351, 374 (E.D. Pa. 2015) ("According to [Judge] Phillips, the Parties were careful not to discuss fees until after the Court had announced, on the record, an agreement regarding the total compensation for Class Members."); *see* Phillips Supp. Decl. ¶¶ 18-19 [ECF No. 6423-6, at 9]; ECF No. 5235.
- 37. Following the announcement of the August 29, 2013 Term Sheet, the parties proceeded to negotiate the detailed terms of the settlement agreement itself. Plaintiffs' Counsel conducted numerous meetings with the NFL Parties, continued to work with their consultants, and spent significant time researching an appropriate settlement claims process, which would not be overly burdensome for Class Members, and which would include the right to appeal adverse claims determinations. *See* ECF Nos. 6423-3 ¶ 34, 6423-6 ¶¶ 2, 4.
- 38. On December 16, 2013, pursuant to Fed. R. Civ. P. 53, the Court appointed Perry Golkin to serve as Special Master to assist the Court in evaluating the financial aspects of the proposed settlement in view of its financial complexities.
- 39. On January 6, 2014 after over four months of additional and extensive negotiations Plaintiffs' Counsel researched, briefed, and filed a motion for preliminary approval of a Class Action Settlement incorporating the terms of the August 2013 Term Sheet. ECF No. 5634-5. This motion contained the negotiated settlement agreement, multiple

supporting declarations from Class Counsel, Subclass Counsel, and player representatives, and extensive briefing. This initial settlement agreement limited the funding of the MAF to \$675 million, which the parties and their actuarial and economic experts believed would be sufficient to pay all benefits throughout the 65-year term of the proposed settlement. *See* Class Action Settlement Agreement (ECF No. 5634-2) § 23.1 (Jan. 6, 2014); Report of Analysis Research Planning Corp. to Special Master Perry Golkin (ECF No. 6167) at 33-36; Report of the Segal Group to Special Master Perry Golkin (ECF No. 6168) ¶¶ 19-20.

- 40. Also on January 6, 2014, Plaintiffs' Counsel filed the *Turner* Complaint on behalf of named Plaintiffs Kevin Turner and Shawn Wooden. ECF No. 5634.
- 41. On January 14, 2014, the Court denied the motion without prejudice. ECF No. 5657. The Court praised the "commendable effort" of the parties to reach the negotiated class action settlement, but expressed concern as to the adequacy of the proposed \$675 million MAF in light of its 65-year lifespan, the settlement class size of more than 20,000 members, and the potential magnitude of the awards. The Court directed the parties to share the documentation described in their submissions with the Special Master. ECF No 5658.

Further Negotiations and New Agreement

42. The parties worked intensely from January to June 2014 to provide the Court with the assurance that "all Retired NFL Football Players who ultimately receive a Qualifying Diagnosis or their related claimants will be paid." ECF No. 5657 at 10. The parties and their actuarial and economic experts met separately with Special Master Golkin and with one another to further analyze the data and to determine whether, and if so, in what manner, the settlement could be amended that would be acceptable to the parties while at the same time satisfying the Court's concerns.

- 43. Notably, Plaintiffs' Counsel refined and tightened definitions of key terms in the settlement, and improved claim procedures to protect against fraud. These changes were the result of significant analysis, coordination, and research, and they required hundreds of attorney hours to accomplish. These further analyses led to an uncapping of the deal and a revised settlement agreement.
- 44. Under the revised agreement, the NFL Parties were to pay all valid claims for the next 65 years, and the MAF was no longer fixed at \$675 million. At the time of this Court's Final Approval of the Settlement, actuarial projections were that the MAF will pay out some \$900-\$950 million by the end of its 65-year term, with the risk of any additional payment for claims being borne entirely by the NFL Parties. The NFL Parties remained responsible for providing all of the funding for the MAF, BAP, and Education Fund, as well as paying, either directly or through their funding of the MAF or the BAP, for Class Notice costs, class attorneys' fees, and the fees and expenses of the Special Master, the Claims Administrator, and the BAP Administrator and certain fees of the Lien Resolution Administrator.
- 45. During this additional five-month negotiation, Plaintiffs' Counsel were assisted by Special Master Golkin, numerous medical and scientific experts, and actuaries and economists. Plaintiffs' Counsel modified the settlement documents to reflect these new features and prepared new briefing to support approval of the revised agreement.

The actuarial model that we developed anticipated certain participation rates for filed and unfiled cases. It also anticipated certain incident rates for the compensable disease categories (*i.e.*, the Qualifying Diagnoses). Specifically, we assumed a 50% participation rate for Class Members who had not filed suit and a 90% participation rate for those who had. If registrations exceed the participation assumption, as may occur given the pre-registrations and registrations to date, the value of the Settlement, given the negotiated uncapped nature of the MAF, will likely exceed prior valuations.

46. On June 25, 2014, Plaintiffs' Counsel filed a motion for preliminary approval of the revised proposed settlement agreement and preliminary class certification. ECF No. 6073. The Court granted preliminary approval of the settlement on July 7, 2014, ECF Nos. 6083-84, and, on July 9, 2014, approved the notice to be disseminated to putative class members, ECF No. 6093.

Efforts to Keep Class Members Informed

- 47. Plaintiffs' Counsel supervised the setup of the informational Settlement Website www.NFLconcussionsettlement.com, which has provided invaluable information to Class Members and has allowed the Claims Administrator to refine the data in its Class Member database, improving its ability to provide information to the Class.
- 48. The Settlement Website has been a tremendous source of information for Retired NFL Football Players and family members. The website has received over 180,000 unique visits and provides access to the Settlement Agreement, the Court-approved notices, the Court's Orders and frequently asked questions, among other documents and information. *See* Declaration of Orran R. Brown, Sr., Feb. 8, 2017, at 2 ("Brown Decl."), attached hereto as Exhibit A.
- 49. The Claims Administrator's other efforts to provide accurate information to Class Members, coordinated with Plaintiffs' Counsel, have been equally successful. The Claims Administrator has received nearly 1,100 written communications and responded those that asked questions about the settlement. The Settlement Call Center has received over 14,000 calls with over 7,200 of these callers speaking directly to live operators for nearly 500 hours. *See* Brown Decl. at 2-3.

- 50. To date, over 12,000 Class Members and their counsel had signed up for information about the Settlement Program, and provided the Claims Administrator with contact information to receive notification once the Settlement became effective. Thousands more had communicated with the Claims Administrator about the Settlement since it received this Court's Final Approval. *See* Brown Decl. at 3.
- 51. Starting after the Court granted preliminary approval to the Settlement, and continuing to the present, Co-Lead Class Counsel, as well as other Plaintiffs' Counsel, have devoted hundreds of hours to communicating with Retired NFL Football Players and family members. Co-Lead Class Counsel has conducted multiple seminars and presentations with Retired NFL Football Player groups throughout the country, including presentations at the Super Bowl and the Pro Football Hall of Fame.
- 52. These sessions, which were very well attended, have educated Retired NFL Football Players about the Settlement's benefits and procedures, and proved to be a valuable and effective means of spreading accurate information about the Settlement. Co-Lead Class Counsel also hosted a series of webinars, with the same goal of increasing awareness of the Settlement. Co-Lead Class Counsel also hosts frequent telephone conference calls with retired players and family members to provide updates on the Settlement.

The Defense of the Settlement Following Preliminary Approval

53. Following preliminary approval, Plaintiffs' Counsel had to contend with a wide array of motions and attempted interlocutory appeals by certain objectors. One group of objectors, represented by MoloLamken LLP, filed a petition for interlocutory review with the Third Circuit, arguing that review of the Court's preliminary approval order was appropriate under Federal Rule of Civil Procedure 23(f) because of this Court's provisional certification of

a settlement class. Those objectors protested the fairness of the Settlement and challenged the preliminary class certification. They maintained that Rule 23(f) allowed immediate appellate review even though there had been no final ruling on class certification.

- 54. Plaintiffs' Counsel filed an opposition to the 23(f) petition and, after requesting a reply brief from the objectors, the Third Circuit heard oral argument on September 10, 2014. The Court of Appeals denied the petition the next day in a one-page order. The Court subsequently issued a written opinion explaining its ruling, *see In re Nat'l Football League Players' Concussion Injury Litig.*, 775 F.3d 570 (3d Cir. 2014). The majority held that the Third Circuit lacked jurisdiction under Rule 23(f) because this Court had "yet to issue 'an order granting or denying class certification." *Id.* at 588-89.
- Filing an appeal to the Third Circuit by invoking appellate jurisdiction under 28 U.S.C. § 1292(a)(1), on the basis that this Court's Preliminary Approval Order had enjoined Class Members' prosecution of litigation against the NFL Parties and was therefore an interlocutory order granting an injunction. After the completion of briefing of that appeal, Plaintiffs' Counsel successfully moved to dismiss it as moot because, in the meantime, the appellants had opted out of the settlement class and were hence no longer Class Members subject to any injunction. See In re Nat'l Football League Players' Concussion Injury Litig., No. 14-3520 (3d Cir. June 4, 2015) (Order dismissing appeal).
- 56. Plaintiffs' Counsel handled a variety of other motions during this time as well, all in an effort to expedite the process and begin implementation of the Settlement. These

included third-party intervention motions seeking access to documents⁵; Class Member bids to take discovery of Class Counsel as to how the Settlement was negotiated or requests to obtain additional information about the Settlement⁶; motions to intervene⁷; motions seeking to extend the opt-out deadline⁸; amicus curiae requests⁹; and a motion to prevent improper communication with Class Members.¹⁰

57. The Court received all timely objections to the Settlement by October 14, 2014. On November 12, 2014, Plaintiffs' Counsel filed their brief and exhibits in support of final approval, pursuant to Rule 23(e). ECF No. 6423. Plaintiffs' thorough briefing addressed these objections by approximately 200 represented and pro se objectors, and fully described the Settlement. Plaintiffs' Counsel prepared the Class's motion for final approval of the Settlement, as well as the supporting memorandum of law. The preparation of Plaintiffs' final approval motion papers entailed extensive coordination with the Settlement's administrative support providers for their declarations in support of the motion. This included Katherine

⁵ ECF No. 6101 (July 24, 2014) (Am. Mot. to Intervene to Seek Access to Docs. and Inform., filed by Bloomberg L.P., ESPN, Inc.).

⁶ ECF No. 6155 (July 31, 2014) (Mot. to Permit Access to Med., Actuarial, and Econ. Info. Used to Support the Settlement Proposal); ECF No. 6169 (Sept. 13, 2014) (Morey Plaintiffs' motion for leave to take "limited discovery").

⁷ ECF No. 6131 (Aug. 13, 2014) (Mot. to Intervene, filed by Richard Dent).

ECF No. 6172 (Sept. 19, 2014) (Emergency Mot. to Modify or Amend the July 7, 2014 Order Requiring Opt-Outs on or before Oct. 14, 2014).

ECF No. 6180 (Sept. 30, 2014) (Mot. for Leave to File *Amicus Curiae* Brief in opposition to final approval of the settlement, filed by Brain Injury Ass'n of Am.).

ECF No. 6257 (Oct. 24, 2014) (Motion for Order Prohibiting Improper Communications with the Class by MoloLamken LLP, filed by the undersigned).

Kinsella, for the notice plan; the Garretson Firm, for BAP and lien resolution administration; and BrownGreer, for claims administration.

- 58. The Court held an all-day Fairness Hearing, pursuant to Rule 23(e)(2), on November 19, 2014. *See* Fairness Hr'g Tr., Nov. 19, 2014 (ECF No. 6463). At the hearing, the Court heard from fourteen counsel for the various objector groups and the settling parties, and from five unrepresented objectors. ECF No. 6463 *passim*. My partner David Buchanan and I made the presentation on behalf of the Settling Plaintiffs.
- 59. Plaintiffs assembled and developed a top-flight group of experts to assist in developing the Settlement, and the petition for final approval included declarations from them: Drs. Kenneth C. Fischer, Christopher Giza, David A. Hovda, John G. Keilp, and Richard Hamilton preeminent specialists in, respectively, the fields of neurology (Dr. Fischer), neuropsychiatry (Dr. Giza), neurosurgery (Dr. Hova), neuropsychology (Dr. Keilp), and sports concussions (Dr. Hamilton). *See* ECF Nos. 6423-17 to 6423-20.
- 60. The work of Plaintiffs' expert Thomas Vasquez provided important guidance in negotiating, modeling, and valuing the settlement. Dr. Vasquez, a Vice President for Analysis Research Planning Corporation, with over 35 years of experience in management consulting for private sector clients, and the development of economic models for governments and industry, assisted in developing a monetary award grid that could be used in valuing claims and modeling the total cost of resolving all pending and future claims by Retired NFL Players. ECF No. 6423-21.
- 61. Dr. Grant Iverson is a professor at Harvard University's Medical School, in the department of Physical Medicine and Rehabilitation. He is a specialist in neuropsychology and a clinician scientist in the area of mild traumatic brain injury and mental health, and also

worked extensively with Plaintiffs' Counsel on the Settlement. Dr. Iverson leads an internationally-recognized research program in outcome from mild traumatic brain injury in athletes, civilians, military service members, and veterans. Together with Dr. Keilp, Dr. Iverson's assistance was instrumental in designing the BAP testing program.

62. The Court permitted post-hearing briefing to address certain issues and to afford objectors additional time to file a response to Plaintiffs' Counsels' final approval motion papers. *See* ECF Nos. 6444, 6453-56. On December 12, 2014, Plaintiffs' Counsel filed their reply to the objectors' post-hearing submissions. ECF No. 6467.

Post-Fairness Hearing Amendments to the Settlement

- 63. On February 2, 2015, the Court "proposed several changes to the Settlement that would benefit Class Members." ECF No. 6479. These were: (1) providing some "Eligible Season" credit for play in NFL Europe; (2) assurance that despite the \$75 million cap on the BAP, all those timely registering will receive a baseline assessment examination; (3) moving the cutoff date for a "Death with CTE" award from the preliminary settlement approval date to the final approval date; (4) allowing for a waiver of the appeal fee for those showing financial hardship; and (5) providing the opportunity to demonstrate a Qualifying Diagnosis without the required medical documentation in instances where such documentation was destroyed by a *force majeure* type event.
- 64. After a new round of negotiations, Plaintiffs' Counsel secured agreement on every change that the Court suggested, and on February 13, 2015, submitted a revised Settlement Agreement, which is the operative Settlement that the Court reviewed and is now effective in the wake of the Supreme Court's denial of *certiorari*. ECF No. 6481.

- 65. Plaintiffs' Counsel also prepared and filed extensive proposed findings of fact and conclusions of law on March 12, 2015. *See* ECF No. 6497.
- 66. This Court granted final approval to the Settlement (and final class certification) on April 22, 2015. ECF Nos. 6509-10. The Court's published 132-page opinion comprehensively addressed class certification; the fairness, adequacy, and reasonableness of the Settlement; and, of course, the myriad arguments raised by the objectors.

The Defense of the Settlement Following Final Approval

- 67. On May 13, 2015, the first of several notices of appeal from the Court's grant of final approval was filed. ECF No. 6539. Ultimately, objectors filed eleven separate briefs in connection with their appeals, which were briefed in tandem and consolidated for argument and decision by the Third Circuit. After receiving the objectors' briefs and those of the two amici curiae opposed to the Settlement (the Brain Injury Association of America ("BIAA") and Public Citizen), Plaintiffs' Counsel devoted extensive attorney time to analyzing the various briefs and researching and drafting their answering brief. Also, Plaintiffs' Counsel prepared for the Third Circuit oral argument, which was held on November 19, 2015.
- 68. On April 18, 2016, the Third Circuit issued its opinion unanimously affirming this Court in all respects. *In re Nat'l Football League Players' Concussion Injury Litig.*, 821 F.3d 410 (3d Cir. 2016). Certain objectors then filed petitions for *en banc* rehearing. The petitions were denied on June 1, 2016, and the Third Circuit issued its mandate on June 9, 2016.
- 69. Following the Third Circuit's denial of *en banc* rehearing, two groups of objectors filed petitions for writ of *certiorari* with the United States Supreme Court. *See Gilchrist v. Nat'l Football League*, No. 16-283 (U.S. filed Aug. 30, 2016); *Armstrong v. Nat'l*

Football League, No. 16-413 (U.S. filed Sept. 26, 2016). The same two partisan amici curiae (BIAA and Public Citizen) filed briefs in support of the *certiorari* petitions. Plaintiffs' Counsel prepared and filed their brief in opposition to the petitions on November 4, 2016. On December 12, 2016, the Supreme Court denied the two *certiorari* petitions. See 137 S. Ct. 591, 607 (2016).

70. Thus, Plaintiffs' counsel expended a great deal of time, energy, and resources to defend this historic Settlement against challenges filed in this Court, the Third Circuit, and the Supreme Court by what were a small, but nonetheless dogged, band of objectors (and their supporting amici), whose relentless challenges threatened not only to undo the Settlement itself but also to irreversibly wreck any prospect of a class-wide resolution of the Plaintiffs' claims in this MDL. Until the Supreme Court declined review of the last of those misguided challenges, long-awaited relief could not begin flowing to Class Members.

Fees and Expenses of Plaintiffs' Counsel

- 71. In Case Management Order No. 5: Submission of Plaintiffs' Time and Expense Reports and Appointment of Auditor ("CMO5"), ECF No. 3710, the Court defined "Compensable Time Categories" and "Compensable Expense Categories" and set forth the guidelines for time and expense submission.
- 72. To date, all PSC members have participated actively in funding the coordinated prosecution of Plaintiffs' (and the Class's) claims, by performing work on a priority basis as assigned and authorized by the undersigned, by incurring the necessary and appropriate out-of-pocket travel and administrative costs to do so, and additionally by contributing assessments to a common benefit fund. This fund has been used, *inter alia*, to retain experts for the litigation, including scientific, medical, actuarial, technical, and procedural experts.

- 73. An ongoing effort has been made to include and involve interested counsel in the common benefit work of the MDL. To date, attorneys from 23 firms have been requested and authorized by the undersigned to perform work for this MDL, and have submitted records of the time and work performed.
- 74. Section 21.1 of the Settlement provides that Class Counsel "shall be entitled, at an appropriate time to be determined by the Court, to petition the Court on behalf of all entitled attorneys for an award of class attorneys' fees and reasonable costs." Provided that the "petition does not seek an award of class attorneys' fees and reasonable costs exceeding One Hundred and Twelve Million, Five Hundred Thousand United States dollars (U.S. \$112,500,000), the NFL Parties agree not to oppose or object to the petition." *Id.* [ECF No. 6481-1, at 82]. As stated in earlier submissions to the Court, the Settling Parties did not enter into attorneys' fee negotiations until after they had agreed upon the Settlement Term Sheet.
- 75. Pursuant to the procedures outlined in CMO5, attorneys and staff working at my direction and under my supervision collected and reviewed submissions of common benefit time and reimbursable costs and expenses submitted by the PEC, PSC and by other firms to which I had assigned common benefit work.
- 76. Only time and expenses that inured to the common benefit of the Class, and that advanced the claims resolved in the Settlement, have been included in the time presented, and the costs submitted herein.
 - 77. The final common benefit time submission includes entries from 23 law firms.
- 78. The total number of common benefit hours associated with the prosecution and resolution of the claims is 50,912.39. This results in a combined lodestar of \$40,559,978.60. The total fees requested \$106,817,220.62 represent a 2.6 lodestar multiplier.

79. The range of hourly rates varies considerably given the diversity of lawyers and law firms tasked to perform the common benefit work, including some of the most qualified and experienced lawyers in the country whom the Court appointed to the PEC and the PSC. The hourly billing rates ranged from \$400 to \$1,350 for partners, from \$275 to \$575 for associates, and from \$125 to \$340 for paralegals. These are the customary billing rates of the submitting lawyers and paralegals, reflecting their respective experience. My customary hourly rate, for example, which has been accepted and awarded by federal courts, is \$985 per hour.

80. The aggregate common benefit costs and expenses total is \$5,682,779.38 million.

81. Attached hereto at the noted exhibit references¹¹ are true and correct copies of the declarations submitted in support of the instant fee petition of the 22 law firms other than Seeger Weiss LLP that have worked for the common benefit of the Class:

Exhibit C: Declaration of Arnold S. Levin (Levin Sedran & Berman)

Exhibit D: Declaration of Gene Locks (Locks Law Firm)

Exhibit E: Declaration of Steven Marks (Podhurst Orseck, P.A.)

Exhibit F: Declaration of Dianne M. Nast (NastLaw LLC)

Exhibit G: Declaration of Sol H. Weiss (Anapol Weiss)

Exhibit H: Declaration of Garrett D. Blanchfield, Jr. (Reinhardt Wendorf & Blanchfield)

Exhibit I: Declaration of William G. Caldes (Spector Roseman Kodroff & Willis, P.C.)

Exhibit J: Declaration of Leonard A. Davis (Herman, Herman & Katz)

Exhibit Y is a true and correct copy of the article *An Empirical Study of Class Action Settlements*, 7 Journal of Empirical Legal Studies, 811-46 (Dec. 2010), by Professor Brian T. Fitzpatrick.

Exhibit K: Declaration of James R. Dugan, II (The Dugan Law Firm)

Exhibit L: Declaration of Daniel C. Girard (Girard Gibbs LLP)

Exhibit M: Declaration of Thomas V. Girardi (Girardi Keese)

Exhibit N: Declaration of Bruce A. Hagen (Hagen, Rosskopf & Earle, LLC)

Exhibit O: Declaration of Samuel Issacharoff

Exhibit P: Declaration of Richard Lewis (Hausfeld LLP)

Exhibit Q: Declaration of Jason E. Luckacevic (Goldberg, Persky & White, P.C.)

Exhibit R: Declaration of Derriel C. McCorvey (McCorvey Law, LLC)

Exhibit S: Declaration of Michael L. McGlamry (Pope McGlamry)

Exhibit T: Declaration of Craig R. Mitnick (Mitnick Law Office, LLC)

Exhibit U: Declaration of David A. Rosen (Rose, Klein & Marias LLP)

Exhibit V: Declaration of Frederick Schenk (Casey, Gerry, Schenk, Francavilla, Blatt & Penfield, LLP)

Exhibit W: Declaration of Anthony Tarricone (Kreindler & Kreindler LLP)

Exhibit X: Declaration of Charles S. Zimmerman (Zimmerman Reed LLP)

Fees and Expenses - Seeger Weiss LLP

82. As noted, I was appointed by the Court to serve as Plaintiffs' Co-Lead Counsel at the outset of this MDL. I was later appointed as Co-Lead Class Counsel in connection with the Court's certification of the settlement class and final approval of the Settlement. As a result, my firm has played a critical role in each step of this litigation. As Co-Lead Counsel and Co-Lead Class Counsel, I was personally involved in each of the activities described above in this declaration. Attorneys at my firm – partners, counsel, and associates – also expended significant time and energy in this litigation. To highlight the contributions of my firm, even prior to formal mediation, my Seeger Weiss colleagues and I spent many hours analyzing

Plaintiffs' claims, and the NFL Parties' defenses. We also studied the critical medical and scientific issues of the litigation at that time. The firm examined possible settlement structures, consulted extensively with other Plaintiffs' counsel, and consulted with experts to explore potential settlement options.

- 83. Seeger Weiss attorneys devoted thousands of hours to initial negotiations, mediation, and drafting of the initial Term Sheet for the Settlement. This involved significant time spent with Plaintiffs' experts in various fields, with other Plaintiffs' Counsel in the mediation process, and in meetings and negotiations with the NFL Parties. Seeger Weiss conducted hundreds of hours of medical research on brain injuries and the progression of brain disease, and hundreds of hours further researching and developing appropriate settlement structures to effectively compensate these diseases. We also worked extremely closely with our experts; hundreds of hours were spent in honing economic and actuarial modeling for the Settlement.
- 84. Seeger Weiss attorneys conducted a comprehensive review of peer-reviewed medical literature to support settlement discussion and negotiations. We and other Plaintiffs' Counsel studied articles on brain injury, concussions, the effect of sub-concussive hits to the head on the brain, the epidemiology of the Qualifying Diagnoses, and the methods of diagnosis and treatment for the Qualifying Diagnoses, to name several of the categories of articles studied.
- 85. After the announcement of the Term Sheet, Seeger Weiss attorneys devoted significant amounts of time to preparing the Settlement Agreement, all supporting documents for the Settlement Agreement, and working through long negotiations with the NFL Parties for the many provisions, exhibits, and modifications of this agreement.

- 86. Seeger Weiss took the leading role in coordinating and preparing all post-Term Sheet briefing, including motions for preliminary and final approval of the Settlement, and responses to the many assorted motions filed by various objectors' counsel after preliminary approval. These briefing assignments required hundreds of hours of attorney time.
- 87. After the submission of the initial motion for preliminary approval, Seeger Weiss attorneys led the renewed negotiations on behalf of Plaintiffs. The results of these many hours spent with the NFL Parties were the refining of many key terms of the Settlement, the uncapping of the MAF, and the strengthening of anti-fraud provisions for the claims administration process.
- 88. Seeger Weiss attorneys also had leading roles in preparing briefing, expert declarations, and exhibits for the Rule 23(e)(2) Fairness Hearing, and for the Plaintiffs' presentation in support of the Settlement at the Fairness Hearing, expending hundreds of hours on these crucial projects.
- 89. The firm conducted extensive coordination with the BAP and Lien Resolution Administrator, as well as the Claims Administrator. Additionally, Seeger Weiss prepared updates for Class Members and fielded phone calls to provide further information on the updates to Class Members.
- 90. Seeger Weiss played a key role in preparing oppositions for the multiple appeals filed in the case, as well as Supreme Court briefing.
- 91. The schedule attached hereto as Addendum 1 of this Declaration is a detailed summary indicating the amount of common benefit time spent by the attorneys and professional support staff of my firm who were involved in, and billed fifty or more hours to,

this litigation, and the lodestar calculation for those individuals based on my firm's current billing rates.

- 92. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates of such personnel in their final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended in connection with the preparation of this application for attorneys' fees and expenses has been excluded.
- 93. The hourly rates for the attorneys and professional support staff of my firm included in Addendum 1 of this Declaration are the same as the regular rates charged for their services in other contingent matters and have been accepted by other federal courts in other class action cases prosecuted by my firm.
- 94. The total number of hours expended on the common benefit of this litigation by my firm during the time period is 21,044.06 hours. The total lodestar for my firm for those hours is \$18,124,869.10 consisting of \$17,742,064.30 for attorneys' time and \$382,804.80 for professional support staff time.
- 95. My firm's lodestar figures are based solely upon my firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.
- 96. As detailed in Addendum 2 hereto, my firm is seeking reimbursement of a total of \$1,498,690.99 in common benefit expenses incurred in connection with the prosecution of this litigation. These expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source material, and are an accurate record of the expenses incurred.

- 97. With respect to the standing of my firm to share in an award of fees, costs, and expenses, attached hereto as Addendum 3 is a biography of my firm, including the attorneys in my firm who were principally involved in this litigation.
- 98. Although Seeger Weiss was retained by a number of Class Members, it is waiving any claim to fees pursuant to its individual retainers and will seek compensation only from a common benefit fee and expense award made by this Court, given that my work and that of my colleagues and employees of the firm, and the expenditures incurred by my firm, were overwhelmingly focused on common benefit efforts.
- 99. I respectfully request that the Court confer upon me, as Co-Lead Class Counsel, the discretion and responsibility to allocate the overall fee and expense award that the Court ultimately makes among Class Counsel and those counsel for non-objecting Class Members who performed common benefit work and incurred common benefit expenses, inasmuch as I have exercised overall oversight and leadership of this litigation and thus have familiarity with the respective roles and contributions of participating Plaintiffs' Counsel. In the alternative, the Court should permit me to propose an allocation of the award which I would do in a written report subject to the Court's final approval of the allocation. As discussed in the accompanying memorandum of law in support of the Petition, this is something that courts typically do in the case of class action common benefit fee and expense awards.
- 100. With respect to the fee petitions filed (or to be filed) by counsel for the Faneca and Jones Objectors (*see* ECF Nos. 7070, 7116), I respectfully propose that the Court direct a segregation or set-aside from the Attorneys' Fees Qualified Settlement Fund (*see* ¶ 121 n.10, infra) of whatever amount it deems appropriate pending resolution of those petitions, but

otherwise permit the allocation and distribution of fees and reimbursement of expenses among non-objectors' counsel.

Five Percent Set-Aside from Monetary Awards and Derivative Claimant Awards

- 101. The Settlement provides that "[a]fter the Effective Date, Co-Lead Class Counsel may petition the Court to set aside up to five percent (5%) of each Monetary Award and Derivative Claimant Award to facilitate the Settlement program and related efforts of Class Counsel. These set-aside monies shall be held in a separate fund overseen by the Court." Settlement § 21.1 [ECF No. 6481-1, at 82].
- 102. Pursuant to this section, Petitioners request a five percent holdback or set-aside of each Monetary Award and Derivative Claimant Award.
- 103. In accordance with the Settlement, for a Class Member represented by individual counsel, any set-aside from a Monetary Award or Derivative Claimant Award will reduce the attorney's fee payable to that counsel by the amount of the set-aside. Settlement § 21.1 [ECF No. 6481-1, at 82].
- 104. The purpose of the set-aside will be to compensate Plaintiffs' Counsel going forward for common benefit work in the post-Effective Date time frame, so as to ensure the successful operation of the Settlement over the course of its 65-year program life. This is distinct from the \$112.5 million in attorneys' fees and reimbursement of costs and expenses to be paid by the NFL Parties, which fees are designed to compensate Plaintiffs' Counsel for past common benefit work and past costs and expenses.

105. As the Court is aware, although the Settlement is now effective, there will be continuing stewardship of the Settlement by Class Counsel for years – indeed decades – to come.

106. The work on behalf of the Class was far from finished upon the Supreme Court's rejection of the last judicial challenge to the Settlement. With those challenges out of the way, the Settlement now has to be administered, implemented, and enforced until its benefits have been delivered to all successful Claimants.

107. Even before the Effective Date, since April 2016, the Settling Parties have had regular working calls with Claims Administrator BrownGreer PLC ("BrownGreer") and Lien Resolution and BAP Administrator Garretson Resolution Group, Inc. ("Garretson") to review work plans, draft materials, and settlement implementation issues. BrownGreer prepared and after the Effective Date promptly launched the registration process contemplated by Article IV of the Settlement and the network of physicians who will serve as Qualified BAP Providers and Qualified MAF Physicians is being set up. To date, Plaintiffs' Counsel and the claims and lien resolution administrators have invested significant time and resources to various implementation tasks. ECF No. 6919. *See* Brown Decl.; Declaration of Matthew L. Garretson, dated Jan. 25, 2017, attached hereto as Exhibit B.

108. Post-Effective Date common benefit work began almost immediately. Plaintiffs' Counsel have had to finalize retention of administrators and special masters; finalize the Settlement Trust Agreement; and prepare conflicts of interest plans (in order to secure the Court's approval by April 7, 2017).

109. Moreover, Class Counsel have had (and will have) to engage in a good deal of work related to the need to ensure that Class Members timely register in order to qualify for

settlement benefits. These efforts included the finalization and dissemination of Supplemental Class Notice regarding the registration and benefits timetable, finalizing and overseeing the effectuation of registration forms, overseeing the transition of call center operations to the Claims Administrator, and continuing revisions to the Settlement website (including FAQs).

launch of the BAP. These include the review of applications of BAP Providers and vetting candidates for retention, receiving reports on contracting with Providers in order to establish networks convenient to a majority of players by metropolitan region, and finalizing BAP procedures (including assessment scheduling and Supplemental Benefits). Still other work has pertained or will pertain to the MAF (whose claims platform for pre-Effective Date Qualifying Diagnoses opens on March 23, 2017; Retired NFL Football Players will contact MAF physicians on their own from the MAF Network that will open on April 7th): the review of applications of MAF Physicians and vetting candidates for retention, finalizing claims forms and processes, and finalizing appeals forms and processes. As these BAP Providers and MAF Physicians retire over time, or, for other reasons, become unable or unwilling to continue to serve in those capacities, over the next 65 years, they will have to be replaced, involving additional common benefit work by Plaintiffs' Counsel.

111. Continuing over the lengthy period of the Settlement's life, attorneys will continue to spend time and effort to coordinate and work with the Claims Administrator, the BAP Administrator, Lien Resolution Administrator, the Settlement Trustee, and the Court to ensure that Retired NFL Football Players and Derivative Claimants receive their benefits. Plaintiffs' Counsel will also be required, over the next 65 years, to consult with experts to stay abreast of medical developments.

112. Plaintiffs' Counsel will also have work to perform in connection with the administrative appeals process. Co-Lead Class Counsel have standing to appeal as part of the Settlement. Settlement § 9.50 [ECF No. 6481-1, at 51]. The Settlement provides rights to appeal various decisions, including denial of registration, denial of Monetary Awards, and the amount of a Monetary Award. *Id.* Plaintiffs' Counsel will also be called upon to provide assistance for all claimants who have not retained lawyers, and in some instances to assist counsel representing individual plaintiffs. This work will continue over the 65-year life of the Settlement.

113. In this respect, Class Counsel must retain the Appeals Advisory Panel (composed of five neurologists/board certified neurospecialists) and Appeals Advisory Panel Consultants (three neuropsychologists) by April 7, 2017. This body is charged, at the outset, with reviewing diagnoses made prior to the Effective Date of the Settlement. *Id.* § 6.43 [ECF No. 6481-1, at 37-38]. These physicians will be advising the Special Masters and the Court. Thus, this work is critical because it will set the tone for the administration of the Settlement. As these physicians retire or for other reasons become unable or unwilling to serve on the Appeals Advisory Panel or as Appeals Advisory Consultants, they will need to be replaced, involving additional common benefit work by Plaintiffs' Counsel.

114. The Settlement requires that the Parties revisit the science every ten years to discuss in good faith possible prospective modifications to the definitions of Qualifying Diagnoses and/or the protocols for making Qualifying Diagnoses, in light of generally accepted advances in medical science. *Id.* § 6.6 [ECF No. 6481-1, at 35]. This too, is anticipated future common benefit work to be performed by Plaintiffs' Counsel.

- 115. Class Counsel will also need to establish, review, and conduct ongoing auditing and financial reporting on the BAP and MAF programs. *Id.* § 10.3 [ECF No. 6481-1, at 59-62].
- 116. Finally, Class Counsel will need to monitor and ensure the NFL Parties' compliance with the funding and the maintenance of the targeted reserves for the MAF and BAP, as well as to monitor the Settlement Trust and Trustee under Article 23 of the Settlement.
- 117. The set-aside thus provides a source to facilitate fair and reasonable compensation for these and other necessary services of Plaintiffs' Counsel for the benefit of the Class over the coming years. Although Class Counsel cannot fully predict the scope or extent of those necessary services, it is clear that such services will be required to some extent.
- 118. Moreover, given the 65-year length of this Settlement, at some point Class Counsel may need to transition the responsibilities for representing the Class and overseeing the implementation of the Settlement to other law firms. Indeed, it is quite possible (if not likely) that this need will rise more than once. The set-aside will also ensure that prospective incoming firms have the financial incentive to undertake these responsibilities by making sure that there is a pool of funds to compensate them for getting up to speed and taking up the mantle.
- 119. If the Court approves the proposed 5% set-aside concept, Plaintiffs' Counsel will submit, within thirty days of the Court's Order approving the set-aside, a detailed plan of administration, including how the funds created from the holdbacks will be pooled and maintained, and how any attorney will apply for compensation for post-Settlement work performed. As experience with the Settlement Program unfolds and as applications for compensation are presented, the Court can adjust the set-aside administration protocols.

Incentive Awards for Class Representatives

120. Last but not least, Petitioners request that the Court make Case Contribution awards (also commonly known as incentive or service awards) of \$100,000.00 to each of the three representatives of the two Subclasses – Messrs. Corey Swinson, Shawn Wooden, and Kevin Turner. Through their efforts, the Class Representatives have conferred benefits on all other Class Members, and should be compensated accordingly.

121. For Subclass 1, Plaintiff Swinson served as the original representative. As an integral part of his work as representative, he met with Subclass 1 counsel Arnold Levin. A retired player who was not diagnosed with neurocognitive impairment, Mr. Swinson had standing to assert the rights of Subclass 1 members (those not currently diagnosed with injuries associated with concussive and sub-concussive head trauma). During the summer 2013 negotiations, Co-Lead Class Counsel and Mr. Levin conferred with Mr. Swinson concerning the terms of the proposed settlement. Mr. Swinson was aware of and agreed to the terms of the settlement and he reviewed drafts of the Term Sheet before it was executed.

- 122. After the Term Sheet was announced, and when Mr. Swinson passed away suddenly in September 2013, ¹³ Plaintiff Shawn Wooden became the proposed Subclass 1 representative. ECF No. 6423-10 ¶ 6. Mr. Wooden played professional football in the NFL from 1996-2004.
- 123. On January 24, 2012, Mr. Wooden had filed a complaint, through his attorney, Class Counsel Steven C. Marks of Podhurst Orseck, PA, against the NFL Parties in the

If the Court grants this request, the total sum of \$300,000 in Case Contribution Awards would be paid out of the \$112.5 million Attorneys' Fees Qualified Settlement Fund, *see* Settlement § 21.2 & 23.7 [ECF No. 6481-1, at 82, 90], and will not increase the NFL's obligations.

Given Mr. Swinson's passing, we request that the Case Contribution Award be made to his estate.

Southern District of Florida (*Wooden v. National Football League*, No. 1:12-cv-20269-JEM). *Id.* ¶ 7. That action was transferred to this MDL on February 23, 2012. Thereafter, on June 7, 2012, a Master Administrative Class Action Complaint for Medical Monitoring was filed on his behalf in the MDL. *Id.*

- 124. Throughout these proceedings, Mr. Wooden has followed the litigation closely. ECF No. 6423-8 ¶ 3. He has had various meetings, telephone conferences and email exchanges with Mr. Marks about the status of proceedings, the NFL Parties' preemption motions, and the oral argument on the motions, among other things. *Id.* In addition, he has reviewed numerous press articles about the litigation and the settlement. *Id.* Since final approval of the Settlement, Mr. Wooden has remained involved, frequently talking to other retired NFL players and family members to provide information about the Settlement.
- 125. On October 16, 2013, Subclass Counsel Arnold Levin met with Mr. Wooden in his offices in Philadelphia regarding his prospective representation of Subclass 1 Class Members in the proposed settlement class action. *Id.* ¶ 4. Mr. Wooden asked a number of questions regarding the settlement and the proposed class action mechanism by which it would be implemented, and Mr. Levin comprehensively discussed these issues with him. *Id.* He supported the Settlement and agreed to participate as the proposed representative of Subclass 1. *Id.*
- 126. Subclass 2 was represented by Kevin Turner. This Subclass consisted of players who were diagnosed with injuries associated with concussive and sub-concussive head trauma. ECF No. 6423-7. Mr. Turner played professional football in the NFL as a fullback from 1992-99. In June 2010, at the age of 41, he was diagnosed with ALS. ECF No. 6423-7 ¶¶ 1-2.

127. On January 20, 2012, Mr. Turner, through his attorney, Class Counsel Steven Marks, had filed a complaint against the NFL Parties in the Southern District of Florida (*Jones v. National Football League*, No. 1:11-cv-24594-JEM). That action was transferred to this MDL on February 14, 2012. On July 11, 2012, Mr. Turner filed a Short Form Complaint in the MDL against the NFL Parties.

128. Throughout these proceedings, Mr. Turner followed the litigation closely. ECF No. 6423-7 ¶ 6. He had numerous meetings, telephone conferences, and email exchanges with Mr. Marks about the status of proceedings, the NFL Parties' preemption motions and the oral argument on same. *Id.* Beginning in about July 2013, Mr. Marks informed Mr. Turner of the settlement negotiations between the Plaintiffs and the NFL Parties and discussed his possible representation of Subclass 2 members. *See id.*

129. In August 2013, Subclass Counsel Dianne Nast met with Mr. Turner at Ms. Nast's offices in Philadelphia regarding his potential representation of Subclass 2 members of the proposed settlement class. *Id.* Mr. Marks was present at that meeting, and the three discussed in detail the impending proposed class-wide settlement. After the meeting, counsel determined that Mr. Turner had standing to assert the rights of Subclass 2 members and that he was an adequate representative for them. Following this Court's April, 2015 Final Approval ruling, Mr. Turner continued to actively monitor and discuss the litigation with Class Counsel, even though his physical condition gravely deteriorated on account of the ALS with which he was afflicted. Mr. Turner passed away on March 24, 2016, during the pendency of objectors' Third Circuit appeals. ¹⁴

Given Mr. Turner's passing, we request that the Case Contribution Award be made to his estate.

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130. In short, all three Subclass Representatives were actively involved in this

litigation and made valuable contributions to its final outcome far beyond those of

representatives of typical certified classes, and their superior contributions on behalf of the

many absent Class members should be appropriately recognized.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of February, 2017.

s/ Christopher A. Seeger

CHRISTOPHER A. SEEGER

Co-Lead Class Counsel

ADDENDUM 1

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

SEEGER WEISS LLP

LODESTAR REPORT

January 31, 2012 through December 28, 2016

NAME	HOURS	HOURLY RATE	AMOUNT
PARTNERS:			
Christopher A. Seeger	6,955.90	985	\$6,851,561.50
David Buchanan	3,867.10	975	3,770,422.50
Dion Kekatos	722.00	925	714,100.00
Jonathan Shub	133.30	750	99,975.00
Michael L. Rosenberg	180.00	825	148,500.00
Moshe Horn	630.90	850	536,265.00
TerriAnne Benedetto	3,331.54	895	2,981,728.30
OF COUNSEL:			
Christopher M. Van de Kieft	1,532.00	785	\$1,202,620.00
Jim O'Brien	313.60	775	243,040.00
Scott George	1,337.60	795	1,063,392.00
ASSOCIATES:			
Denise Stewart	91.60	600	\$54,960.00
STAFF ATTORNEYS:			
CONTRACT ATTORNEYS:			
Jacob Abbott	151.00	500	\$75,500.00
PARALEGALS:			
Caitlyn Garcia	130.40	215	\$28,036.00
Constance Guistwhite	87.80	215	18,877.00
Corey Madin	50.20	215	10,793.00
Daniel Mora	88.60	295	26,137.00
Keri L. Newman	991.52	215	213,176.80
Lauren Griffith	399.00	215	85,785.00
TOTALS:	21,044.06		\$18,124,869.10

ADDENDUM 2

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

SEEGER WEISS LLP

COST AND EXPENSE REPORT

January 31, 2012 through December 28, 2016

NUMBER	CATEGORY	AMOUNT
1	Assessments	\$500,000.00
2	Commercial Copies	\$12,704.07
3	Computerized Research	\$42,250.30
4	Court Reporters/Transcripts	\$1,576.90
5	Expert Services	\$729,782.98
6	Facsimile	
7	Filing & Service Fees	\$1,777.92
8	In-House Copies	\$8,694.45
9	Long Distance Telephone	\$5,443.60
10	Postage/Express Delivery	\$6,312.10
11	Travel/Meals/Lodging	\$185,732.68
12	Miscellaneous	\$4,415.99
TOTAL EX	KPENSES	\$1,498,690.99

ADDENDUM 3



NEW YORK, NY 77 Water Street New York, NY 10004 (212) 584-0700 (212) 584-0799 fax NEWARK, NJ 550 Broad St Newark, NJ 07102 (973) 639-9100 (973) 639-9393 fax PHILADELPHIA, PA 1515 Market St Philadelphia, PA 19102 (215) 564-2300 (215) 851-8029 fax

www.seegerweiss.com

Firm Biography

Founded in 1999, SEEGER WEISS LLP is broadly admired as one of the nation's premier plaintiffs' law firms. The Firm currently numbers approximately 25 attorneys operating out of offices in New York City; Newark, NJ; and Philadelphia, PA, and regularly litigates in state and federal courts throughout the United States. It focuses on mass tort and class action litigation, with particular emphasis in the areas of products liability, pharmaceutical injury, consumer protection, environmental and toxic tort, securities fraud, antitrust, insurance, ERISA, employment, and *qui tam* litigation. The Firm is made up of experienced litigators, including former state and federal prosecutors. Seeger Weiss's reputation for leadership and innovation has resulted in its appointment to numerous plaintiffs' steering and executive committees in a variety of multidistrict litigations throughout the United States, and it regularly serves as courtappointed Liaison Counsel in New York and New Jersey federal and state courts.

The Firm's manifold accomplishments—including favorable jury verdicts for \$47.5 million in *Humeston v. Merck & Co.* (N.J. Super. Ct. Atlantic County); over \$10.5 million in *Kendall v. Hoffman-La Roche, Inc.* (N.J. Super. Ct. Atlantic County); \$11.05 million in *Owens, et al v. ContiGroup Companies, et al* (Mo. Cir. Ct., Jackson County); and \$25.16 million in *McCarrell v. Hoffman-La Roche, Inc.* (N.J. Super. Ct. Atlantic County)—earned it the distinction of being one of only 8 law firms named by the *National Law Journal* to its exclusive "Plaintiffs' Hot List," among numerous awards and recognitions bestowed upon the firm.

Building off its successes in the courtroom and ability to litigate successfully to trial, the Firm has been at the helm of some of the most notable settlements in recent decades, including:

• The settlement in *In re National Football League Players' Concussion Injury Litigation* estimated to be worth \$1 billion which includes a Baseline Assessment Program to evaluate the current cognitive state of retired NFL players and provide immediate treatment and therapies to qualified players, as well as monetary payments

- of up to \$5 million to certain qualifying diagnoses over the 65 year term of the settlement.
- The \$14.7 billion settlement in *In re Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation* which combines a massive buyback program, paying pre-scandal buyback pricing to eligible owners, as well as billions of dollars to environmental remediation efforts and green vehicle technology.
- A \$47.5 million jury verdict in the key bellwether Vioxx trial, *Humeston v. Merck & Co.*, which laid the foundation for the eventual \$4.85 billion global settlement covering more than 45,000 personal injury claims for heart attack, sudden cardiac death, and ischemic stroke.
- The \$700 million first-round settlement of over 8,000 Zyprexa claims alleging that Zyprexa caused diabetes and diabetes-related injuries and the subsequent, second-round settlement of \$500 million.

Mass Torts and Pharmaceutical Litigation

During the past 15 years, Seeger Weiss has emerged as one of the premier mass torts firms in the United States, particularly in the area of pharmaceutical torts. The Firm's expertise in this area has been recognized by courts throughout the U.S. which have appointed the Firm to numerous plaintiffs' steering committees in a variety of multidistrict litigations, including, among others:

Vioxx. Seeger Weiss has served at the helm of the nationwide Vioxx litigation since its inception, playing highly prominent roles in both the federal and New Jersey state court litigations against Merck & Co, the manufacturers of the prescription arthritis drug now thought to lead to an increased risk of heart attack and stroke. On April 8, 2005, the Honorable Eldon E. Fallon, who presides over the Vioxx multidistrict litigation in New Orleans, Louisiana, appointed firm partner, Christopher A. Seeger, as Co-Lead of the Plaintiffs' Steering Committee. Additionally, partner David R. Buchanan was appointed Co-Liaison counsel in the New Jersey state Vioxx litigation before the Honorable Carol E. Higbee, J.S.C. In a 2005 class certification ruling involving claims brought on behalf of all third-party payors, including health-maintenance organizations, managed-care organizations, employers and unions, challenging Merck's advertising practices and pricing policies, Judge Higbee recognized Seeger Weiss's prominence in Vioxx-litigation in noting that "there is probably no other law firm as knowledgeable about Vioxx."

In 2007, Mr. Seeger served as Lead Co-Counsel in *Humeston v. Merck & Co.* in New Jersey Superior Court, Atlantic County. There, he and other Seeger Weiss partners David R. Buchanan, Moshe Horn and Laurence Nassif obtained a \$47.5 million jury verdict for the



plaintiff for injuries caused by Vioxx—as cited in the "Top 20 Personal Injury Awards of the Year (2007)" published by the *New Jersey Law Journal*.

Only months after achieving that verdict, Mr. Seeger, along with co-counsel on the Vioxx Negotiating Committee, concluded a \$4.85 billion global settlement with Merck, covering more than 45,000 personal injury claims for heart attack, sudden cardiac death, and ischemic stroke. It represents the largest "global" settlement of personal injury claims stemming from a pharmaceutical product in U.S. history.

Zyprexa. In 2004, Seeger Weiss partner Christopher Seeger was appointed by the Honorable Jack B. Weinstein of the U.S. District Court for the Eastern District of New York to serve as Liaison Counsel in the multidistrict litigation against Ely Lilly & Co. relating to the anti-psychotic drug Zyprexa. On June 7, 2005, Eli Lilly and Mr. Seeger, on behalf of the Plaintiffs' Steering Committee, announced a \$700 million settlement of over 8,000 Zyprexa claims alleging that Zyprexa caused diabetes and diabetes-related injuries. Mr. Seeger was one of the chief architects and leading negotiators of this landmark settlement. He also took a leading role in negotiating a second-round settlement of \$500 million between plaintiffs and Eli Lilly.

Accutane. In 2005, Seeger Weiss partners Christopher Seeger and Dave Buchanan were jointly named to serve on the Plaintiffs' Steering Committee in connection with consolidated litigation against New Jersey based Hoffman-LaRoche, Inc., involving the company's acne medication, Accutane. The mass tort litigation, which came before the Honorable Carole E. Higbee in Atlantic County, involved the consolidation of claims throughout the state of New Jersey alleging severe side effects resulting from the use of Accutane, including birth defects; suicidal impulses among young adults; and inflammatory bowel disease ("IBD"), including Chrohn's disease and ulcerative colitis, a debilitating and life-altering disease with no known cure.

To date, Mr. Buchanan—who, with Seeger Weiss partner Christopher Seeger, served as liaison counsel for the New Jersey coordinated proceedings in the Accutane litigation—has served as co-trial counsel in the three cases tried in New Jersey that involved Accutane-related injuries, all of which resulted in verdicts for the Plaintiff. One, *McCarrell v. Hoffman-La Roche, Inc.*, in New Jersey Superior Court, Atlantic County, resulted in a \$25.16 million verdict for the Plaintiff, an Alabama resident who suffered IBD from using Accutane. Seeger Weiss partner Michael Rosenberg also served on the trial team in that case. Another, *Kendall v. Hoffman-La Roche, Inc.*, in the same court, resulted in a verdict for the plaintiff, a Utah woman who suffered the same ailment from using Accutane, of nearly \$10.6 million. The third, a consolidated trial for *Mace v. Hoffmann LaRoche Inc.*, *Speisman v. Hoffmann LaRoche Inc.*, and *Sager v. Hoffmann LaRoche Inc.*, garnered a \$12.9 million award from the New Jersey jury in November 2008.



Rezulin. Seeger Weiss plays a major role in products liability actions against Pfizer and Warner Lambert involving Rezulin, a prescription drug used to treat Type II diabetes. The Firm is a court-appointed member of the Executive Committee in the federal suits coordinated by the Judicial Panel on Multidistrict Litigation ("JPML") before Judge Lewis A. Kaplan in the U.S. District Court for the Southern District of New York. The Firm is also a member of the New Jersey Rezulin Steering Committee in In re: Rezulin Litigation, currently pending before the Superior Court of New Jersey, Middlesex County. The Firm also successfully represented numerous individuals who commenced personal injury damage actions in various courts throughout the country, all of which claims have been resolved through confidential settlement.

Notably, in March 2003, following a six-week jury trial, the Firm achieved a \$2 million verdict against Pfizer on behalf of Concepcion Morgado, a Brooklyn resident who sustained liver injury and was hospitalized for 10 days following her Rezulin use. The case was the first and only Rezulin matter to be tried in New York and represented a watershed result in the nationwide Rezulin litigation.

Vytorin and Zetia. Seeger Weiss has taken the lead in Zetia and Vytorin litigation, negotiating a \$41.5 million settlement with Merck & Co., Inc. and Schering-Plough Corporation, which resolved nationwide fraud claims that arose from the sale and marketing of the companies' co-ventured prescription drugs. Plaintiffs contend that Merck conspired with Schering-Plough in 2003 to combine Zocor—an enormously popular statin cholesterol drug, with Zetia—another widely used non-statin cholesterol drug, under the new name Vytorin. The two companies began marketing Vytorin as more effective in reducing cholesterol than Zetia and Zocor alone, as well as being effective in blocking arterial plaque that can cause heart attack and stroke. The lawsuits allege that the companies have known since 2006 that Vytorin was no more effective than the generic version of Zocor in blocking plaque, despite being effective in lowering LDL, or "bad" cholesterol. In failing to disclose these facts, Merck and Schering-Plough were allegedly able to cause consumers and third-party purchasers to pay significantly higher prices than the cost of equally effective alternatives available on the market.

Founding partners Christopher A. Seeger and Stephen A. Weiss served as Co-Liaison Counsel for the Plaintiffs' Executive Committee for *In Re Vytorin/Zetia Marketing, Sales Practices and Products Liability Litigation*, the coordinated group of 140 actions against the two pharmaceutical companies, located in Newark before the Honorable Dennis M. Cavanaugh of the United States District Court of New Jersey. Seeger acted as the principal negotiator for the Plaintiffs' Executive Committee, aided by Weiss and Seeger Weiss partner Diogenes P. Kekatos.



Noteworthy Current Pharmaceutical Mass Tort Prosecutions

Gadolinium. The Firm is at the forefront of litigation against multiple defendant manufacturers of Gadolinium-based contrast agents ("GBCAs") used in certain diagnostic imaging procedures. In December 2006 the U. S. Food and Drug Administration ("FDA") issued a second and stronger Public Health Advisory concerning a link between GBCAs used during Magnetic Resonance Imaging ("MRI") and Magnetic Resonance Angiography ("MRA") procedures, and a debilitating and potentially fatal skin disorder known as Nephrogenic Systemic Fibrosis or Nephrogenic Fibrosing Dermopathy ("NSF/NFD"). Since it released its first Public Health Advisory in June 2006, the FDA has been further investigating the apparent relationship between contrast agents containing gadolinium and NSF/NFD. As of December 2006, the FDA had received reports of 90 patients that developed NSF/NFD within 2 days to 18 months after exposure to such contrast agents.

In February 2008, the Judicial Panel on Multidistrict Litigation ordered all federal actions involving personal injuries stemming from Gadolinium-based contrast dyes centralized in the U.S. District Court for the Northern District of Ohio, before the Honorable Dan Aaron Polster, who has appointed Seeger Weiss partner Christopher Seeger to serve on the Plaintiffs' Steering Committee and Executive Committee in the multidistrict litigation against multiple defendant manufacturers of GBCAs used in MRI and MRA diagnostic imaging procedures. Partner Dave Buchanan serves as court-appointed Federal-State Liaison Counsel for the litigation. Also in 2008, Seeger Weiss partners Christopher Seeger and Dave Buchanan were appointed Liaison Counsel in connection with the consolidated mass tort litigation against manufacturers of GBCAs in New Jersey, before the Honorable Jamie D. Happas of the Superior Court of New Jersey, Middlesex County.

Fosamax. In August 2006, the JPML ordered all federal litigation involving Merck & Co.'s prescription medication Fosamax—used in the treatment of osteoporosis but found to have caused a number of adverse effects, in particular, osteonecrosis (death of bone tissue)—centralized in the U.S. District Court for Southern District of New York (Manhattan), before the Honorable John F. Keenan. Seeger Weiss partner Christopher A. Seeger has been appointed Plaintiffs' Liaison Counsel, and also served on the Executive Committee of the Plaintiffs' Steering Committee in the multidistrict litigation.

Mirena. In April 2013, the JPML ordered all federal litigation involving Bayer's intrauterine ("IUD") device marketed under the brand name Mirena—an IUD containing a hormone, levonorgestrel, designed to be implanted in the uterus for as long as five years—centralized in the U.S. District Court for Southern District of New York (in White Plains, New York), before the Honorable Cathy Seibel. Meanwhile, many hundreds of lawsuits in the New Jersey state courts have been centralized before the Honorable Brian R. Martinotti in Bergen



County. The Plaintiffs allege that Bayer failed to warn about the longer-term risks of migration of the Mirena device and perforation of the user's uterus, having warned about the risk of migration and perforation only at the time of device's insertion. Other complications that Bayer failed to warn about include migration and embedment of the device in the uterus. Seeger Weiss partners Diogenes P. Kekatos and David R. Buchanan have been appointed as Plaintiffs' Liaison Counsel in the federal multidistrict and New Jersey state multicounty Mirena litigation, respectively.

Yaz, Yasmin, and Ocella. In November 2009, Seeger Weiss partner Christopher A. Seeger was named to the Plaintiff's Steering Committee in the *Yasmin and YAZ (Drospirenone) Marketing, Sales Practices and Products Liability Litigation* (MDL No. 2100) by Judge David R. Herndon, United States District Court, Southern District of Illinois. More than a hundred lawsuits have been filed against Bayer Healthcare, the pharmaceutical giant that produces Yaz and Yasmin. This litigation, which is expected to include hundreds of women asserting severe health complications resulting from taking these birth control pills, was centralized in the Southern District of Illinois in October 2009 by order of the United States Judicial Panel on Multidistrict Litigation.

Actos. In November 2012, founding partner Christopher A. Seeger was appointed to the Multidistrict Litigation (MDL) Actos Product Liability Plaintiffs' Steering Committee. In June 2011, a European study found that among a group of 155,000 patients, one fifth of those who developed bladder cancer had been taking the drug Actos. However, the health warnings that accompany the prescription fail to alert users of this risk. The governments of France and Germany have now banned the type-2 diabetes medication, and the FDA has issued warnings to American doctors who prescribe the drug. Takeda Pharmaceutical Co., the makers of Actos and Asia's largest pharmaceutical company, may face up to as many as 10,000 claims.

Other Pharmaceutical and Medical Device Prosecutions

Depuy Orthopaedics, Inc ASR Hip Implant Products. Seeger Weiss partner Christopher A. Seeger was named to the Plaintiffs' Executive Committee in the *In Re: Depuy Orthopaedics, Inc ASR Hip Implant Products* (MDL No. 2197) by Judge David A. Katz, United States District Court, Northern District of Ohio in January 2011. More than a hundred lawsuits have been filed against Johnson & Johnson, the pharmaceutical giant that is also the parent company of Depuy Orthopaedics, Inc. In August 2010, Johnson & Johnson and its medical device subsidiary, DePuy Orthopaedics, recalled two acetyabular cups hip replacement systems because of their high rate of failures, after a study from the National Joint Registry of England and Wales showed that 1 out of every 8 patients (12%-13%) who had the devices had to undergo revision surgery within five years of receiving it. By the time of the recall, more than 93,000 patients worldwide were fitted with an ASR hip implant. Roughly a third of those were patients



in the United States. This litigation was centralized in the North District of Ohio in December 2010 by order of the United States Judicial Panel on Multidistrict Litigation.

PPA. Seeger Weiss remains actively involved in litigation against numerous manufacturers of pharmaceutical products containing PPA (phenylpropanolamine), until 2000 an ingredient in virtually every over-the-counter cold medication and many appetite suppressant products. The Firm serves on the Plaintiffs' Steering Committee in the federal suits consolidated by the JPML in the U.S. District Court for the Western District of Washington, and as the court-appointed Liaison Counsel in the New York PPA actions coordinated before Judge Helen Freedman. In 2003, the Firm was one of the lead negotiators of a nationwide settlement agreement with the manufacturers of Dexatrim, a leading over-the-counter appetite suppressant that until 2000 contained PPA. The settlement covers the claims of all individuals who suffered stroke-related injuries resulting from the ingestion of PPA-containing Dexatrim.

Propulsid. Seeger Weiss held national leadership positions in pharmaceutical products liability litigation against Johnson & Johnson and Janssen Pharmaceutica, Inc., the manufacturers of Propulsid—a prescription drug used to treat nocturnal heartburn. Seeger Weiss LLP was a member of the court-appointed Plaintiffs' Steering Committees in both the federal litigation, which have been consolidated by the JPML in the Eastern District of Louisiana, and in the statewide consolidated actions in Middlesex County, New Jersey. The Firm served as counsel to numerous individuals who have commenced personal injury damage actions in various courts throughout the country.

Guidant and Medtronic Heart Device Litigations. Seeger Weiss served as a court-appointed member of the Plaintiffs' Steering Committee in multidistrict litigation in the U.S. District Court for the District of Minnesota against Medtronic and Guidant involving defective heart defibrillators and pacemakers. The heart devices at issue are surgically implanted in persons who have a type of heart disease that creates the risk of a life-threatening heart arrhythmia (abnormal rhythm). Both Medtronic and Guidant had disclosed defects in certain of their defibrillators that caused the devices to fail without warning. The Firm filed one of the first actions in the U.S. against Guidant on behalf of patients.

Other Pharmaceutical Products. In addition to aforementioned pharmaceutical, the Firm serves or has served as counsel in numerous lawsuits in state and federal courts throughout the country brought by individuals who have suffered personal injury or death resulting from the use of various pharmaceutical or medical device products, including Baycol, Celebrex, Elidel, Ephedra, Fen-Phen, Kugel Mesh hernia patches, Lamisil, Neurontin, OxyContin, Ortho Evra birth control patches, Protopic, Serevent, Serzone, and Sporanox.



Consumer Litigation

Seeger Weiss LLP has achieved notable recoveries and currently holds leadership roles in many major consumer class action litigations throughout the country. Among the consumer class action litigations in which Seeger Weiss LLP plays or has played a major role are, in alphabetical order:

Alexander v. Coast Professional Services. Seeger Weiss represented federal student loan borrowers who were in default on their student loan payments, but denied federally mandated offers of rehabilitation by Coast Professional Services, one of the private collecting agency under contract with the United States Department of Education. After obtaining class certification, Seeger Weiss negotiated a settlement which provided the maximum statutory damages available to the class under the Fair Debt Collections Practices Act. Scott Alan George was primarily responsible for the litigation

In re Armstrong World Industries, Inc.: \$7 million settlement achieved in the United States Bankruptcy Court for the District of Delaware after transfer. The Firm represented the State of Connecticut, one of numerous property damage claimants which sought injunctive relief and monetary damages resulting from the presence of Armstrong-manufactured asbestoscontaining resilient floor tile and sheet vinyl in residences and buildings throughout the United States.

In re Azek Building Products, Inc. Marketing and Sales Practices Litigation. Pending in the District of New Jersey, this litigation seeks relief for purchasers of Azek composite decking, marketed to consumers as a high-end, low-maintenance, and fade-resistant decking. Despite these representations, this expensive decking line contains a design defect which makes it prone to significant fading in outdoor exposure. Rather than replace the defective decking or compensate consumers, the Defendant recommended the application of an expensive after market product, DeckMax, which only temporarily masks the manifestation of the defect and requires a laborious application process. Seeger Weiss is interim co-lead counsel in the case. The parties recently concluded a hard fought discovery process and Plaintiffs are now preparing to file a motion for class certification.

In re Bridgestone/Firestone, Inc. ATX, ATX II and Wilderness Tires Products Liability Litigation: Seeger Weiss represented Firestone tire owners and purchasers of Ford Explorers equipped with certain models of Firestone tires. Plaintiffs sought damages flowing from design defects that resulted in severe, life-threatening accidents. Specifically, the consumer class sought a tire recall, recovery for the cost of tire replacement, and recovery for the diminution in the value of Ford Explorer vehicles resulting from the subject design defects. Following the filing of a number of federal class actions, the litigations were transferred for pre-trial proceedings to the



Federal court in Indianapolis. In those coordinated actions, which the JPML had centralized before the Honorable Sarah Evans Barker of the U.S. District Court for the Southern District of Indiana (Indianapolis), Seeger Weiss served as a member of the Plaintiffs' Law Committee. Following extensive discovery and motion practice, Plaintiffs achieved a favorable nationwide settlement of their class claims.

In re Caterpillar, Inc., C13 and C15 Engine Products Liability. Representing the Plaintiffs in the first filed action in this Multi-District Litigation, Seeger Weiss was among the firms that brought substantial relief to owners of busses and trucks with Caterpillar's C13 and C15 diesel engines. These diesel engines used a defective "Caterpillar Regeneration System," an anti-pollution system that was designed to ensure engine emissions complied with federal regulations, but would fail under normal operating conditions leading the engines to "de-rate" and shut down without warning.

After fully briefing class certification for the first-filed Plaintiffs, the MDL Plaintiffs prevailed against two motions to dismiss, including a motion arguing for federal preemption of all claims. The settlement discussion which quickly followed resulted in a \$60 million common fund class settlement, providing up to \$10,000 per engine (depending on the number of deratings) or \$15,000 in proven consequential losses. Approval of this settlement is currently pending.

Ecker v. Ford: The Superior Court of California granted final approval to the class action settlement in this litigation after the Firm obtained contested class certification. The settlement provided full cash reimbursement for qualifying parts and labor for all California owners and lessees of Ford Focus vehicles who experienced premature front brake wear, including reimbursement for brake pads and rotors. The court had earlier appointed the Firm to act as colead counsel in the litigation. Seeger Weiss partner Christopher Seeger and Scott Alan George were primarily responsible for the litigation.

In re: Ford Fusion and C-Max Fuel Economy Litigation. Pending in the Southern District of New York, this Multi-District litigation seeks relief for purchasers and lessees of Ford's 2013 CMax and Fusion hybrid cars. As of mid-2012, Ford held a tiny fraction of the hybrid market. But with the 2013 model year, Ford launched a massive and misleading advertising campaign designed to convey to the auto-buying public that two of its new 2013 hybrid models—the all new second generation Fusion Hybrid and the C-MAX—had made a quantum leap in fuel economy and now delivered 47 city, 47 highway and 47 MPG combined. While Ford realized record sales of its new hybrid vehicles, the owners and lessees of these cars realized no better fuel efficiency than earlier models. Seeger Weiss is serving as a member of the Plaintiffs' Steering Committee with Scott Alan George having primary responsibility.



Lester v. Percudani: The Firm represented over 170 first-time homeowners in the United States District Court for the Middle District of Pennsylvania who purchased homes at inflated valuations based upon fraudulent appraisals and in violation of federal mortgage lending guidelines. The action includes federal civil RICO and state consumer fraud claims against a group of RICO co-conspirators. In 2008, the district court denied motions for partial summary judgment that had been filed by two of the Defendants (Chase Home Finance LLC and one of its officers), and later denied their motion for reconsideration of that ruling. Following those rulings, the parties entered court-approved mediation, which resulted in a settlement that provided millions of dollars' worth of relief to the aggrieved homeowners, including substantial mortgage rate reductions.

In re MCI Non-Subscriber Telephone Rates Litigation: \$88 million class settlement completed in the United States District Court for the Southern District of Illinois following a transfer to that district by the JPML. The settlement resolved claims brought by class members to recover overcharges arising from MCI's improper imposition of non-subscriber rates and surcharges on certain of its customers. Seeger Weiss was a member of the Plaintiffs' Steering Committee and served as Chair of the Discovery Committee.

In re Mercedes-Benz Emissions Litigation. In the wake of the Volkswagen "clean diesel" scandal, Seeger Weiss was one of the first firms to first investigate and initiate litigation an action against Mercedes-Benz for its own long-term efforts to cover-up the fact that their own BlueTEC "clean diesel" vehicles pollute far more than regular engines and more than regulations allow. The litigation is pending in the United States District Court for the District of New Jersey where several similar actions have been consolidated. Christopher Seeger and Scott Alan George are primarily responsible for this litigation.

Pro et al. v. Hertz Equipment Rental Corporation. This nationwide settlement in the United States District Court for the District of New Jersey provided both substantial monetary and injunctive relief related to Hertz Equipment Rental Corporations' ("Hertz") deceptive charges for Loss and Damage Waivers ("LDW") and Environmental Recovery Fees ("ERF"). Plaintiffs' claimed that Hertz's LDW and Environmental Recovery Fee ("ERF") were unconscionable in that the LDW provided only illusory coverage and that the ERF did not reflect any actual additional fees or expenses related to the protection of the environment. Plaintiffs succeeded in certifying a national class of purchasers before undertaking court-ordered mediation in 2012. Two members of Seeger Weiss, Scott Alan George and Jonathan Shub, were appointed as part of the settlement to serve as Co-lead Counsel. Under the terms of the Settlement, Hertz reimbursed Class members who paid for damages sustained to equipment they rented up to 75% of the amount of the deductible paid during the class period, offering the choice of



either future rental discounts or cash payment. Hertz also agreed to improve the disclosures it makes about the LDW and ERF programs.

In Simply Orange Orange Juice Marketing and Sales Practices Litigation. Seeger Weiss is co-lead counsel in a pivotal litigation regarding food fraud in connection with the most widely consumed juice in the United States—orange juice, and some of the mostly widely consumed products by the American public—Simply Orange and Minute Maid orange juice products. Unknown to consumers, Coca-Cola, the manufacturer of these juices, adds flavors to the juices, to impart a signature, market-distinguishing taste to the juices and to mask flavor loss that occurs during long term storage of the juice. Coca-Cola adds these flavors to the juices but omits disclosure of them while marketing the juices as 100% Pure Squeezed Orange Juice with no additives. The practice violates the federal standard of identity for pasteurized and from concentrate orange juices as well as state laws prohibiting misleading marketing and advertising. The litigation has been hard fought; the parties' summary judgment motions were denied last year and the parties are now in the midst of class certification briefing. The case is pending in the Western District of Missouri.

Sternberg v. Apple Computer, Inc. and Gordon v. Apple Computer, Inc.: Nationwide settlement completed in California state court. Plaintiffs recovered class-wide damages resulting from Apple's deceptive advertisements for its iMac and G4 brand computers—specifically the functionality of the DVD playback feature. Seeger Weiss served as co-lead counsel for the classes.

Taha v. Bucks County. The firm served as co-counsel and was appointed Co-class Counsel by the United States Court for the Eastern District of Pennsylvania to represent a class of persons whose privacy rights had been violated by Bucks County Prison. In contravention of Pennsylvania state law, Bucks County Prison began in 2011 to post publicly and freely on the Internet through its "Inmate Look-Up Tool" the intake information and photos of each person who had passed thorough the facility since 1938. Seeger Weiss obtained both certification of a class and summary judgment on liability. Appeal by defendants is currently pending to the Third Circuit.

Tennille v. The Western Union Company. Seeger Weiss served as co-Class Counsel in consolidated nationwide class action suits filed in the U.S. District Court for the District of Colorado, alleging that Western Union, in violation of consumer fraud laws, wrongly failed to inform customers who purchased money transfers if a money transfer failed to go through to the intend recipient. Western Union could then sit on the funds for years, earning income and administrative fees off them while, in many cases, the funds eventually escheated to state governments. Following years of extensive discovery and motion practice, including defeating Western Union's bid to compel arbitration, the parties reached a settlement, brokered by the



Tenth Circuit's chief mediator. Under the settlement, Western Union agreed to the establishment of a cash fund (valued at over \$135 million at the time of final approval of the settlement) for the return to class members of funds not already escheated to states; the payment of interest to those class members whose wire transfer funds had already escheated to a state government; the formation of a process for assisting class members in securing the return of their funds if they have already escheated; the creation of a 7-1/2 year notice plan, whereby Western Union was required to inform customers within 60 days if their wire transfers are unsuccessful; and the undertaking of robust efforts to update customers' stale contact information. The settlement received final approval from U.S. District Judge John L. Kane in June 2013.

In re Tropicana Orange Juice Marketing and Sales Practices Litigation. The allegations in this case are similar to the Simply Orange litigation. As with Coca-Cola, Tropicana Products adds flavors to Tropicana Orange Juice to alter and improve the flavor of stored orange juice with flavors created by fragrance and flavor manufacturers and specifically designed to meet consumer taste preferences. Despite the addition of flavors, Tropicana markets the juice as pure and fails to disclose the addition of flavors to consumers. Seeger Weiss along with co-counsel recently filed a motion for class certification. Along with the motion for class certification, Seeger Weiss filed a motion for appointment as co-lead counsel. The case is pending in the District of New Jersey.

Truth-in-Lending Act Litigation: The Firm served as co-counsel in several dozen proposed nationwide class actions that were filed in 2007 and 2008 in the various federal courts in California against banks and other mortgage lenders, asserting claims under the federal Truthin-Lending Act ("TILA"), and California consumer fraud statutes and common law. These actions sought recovery of damages as well as equitable relief, including rescission, in connection with highly-deceptive so-called Option Adjustable Rate Mortgage ("ARM") loans. The loan documents given to Option ARM borrowers failed to adequately disclose to borrowers that the initial "teaser" interest rate of 1%-3% would last only 30 days and that, after that time, the minimum payment specified in the payment schedule would be insufficient to cover even monthly interest charges, let alone loan principal. As a result, borrowers who secured these deceptive loans lost equity in their homes and were no longer able to secure the refinancing necessary to get out from under these loans. In several of the lawsuits, the courts sustained the Plaintiffs' claims against the defendant lenders' dispositive motions, and several cases resulted in the certification of classes. A number of the suits culmimated in settlements providing cash and/or other relief to borrowers. Seeger Weiss partners Christopher A. Seeger, Jonathan Shub, and Diogenes P. Kekatos all played a substantial role in these hard-fought litigations.

In re Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation: In the largest consumer automotive industry class action settlement in history, Volkswagen ("VW") has agreed to create a funding pool of over \$10 billion, an amount which is



sufficient to allow for buybacks of 100% of the VW and Audi 2.0-liter diesel vehicles in the United States which are equipped with "defeat device" software. This software was designed to allow vehicles to meet emissions standards when undergoing emissions testing, but to bypass emissions controls at all other times and pollute the environment by emitting nitrous oxides at levels up to 40 times higher than when the vehicles are being tested. In addition to the direct monetary benefits to consumers, VW also has agreed to pay \$2.7 billion for environmental remediation and to make a \$2 billion investment in "green" vehicle technology.

The settlements were reached with VW through the efforts of lawyers on behalf of the consumer class, working in conjunction with government lawyers, including those from the Environmental Protection Agency and the Federal Trade Commission. The judge overseeing the Multidistrict litigation centralized in the Northern District of California, the Honorable Charles R. Breyer, pushed the lawyers involved to work diligently and quickly in order to reach the settlements expeditiously (or face a quick trial) in order to meet the ultimate goal of removing the polluting cars from the roads as soon as possible.

Christopher Seeger was appointed by Judge Breyer to serve on the Plaintiffs' Steering Committee ("PSC"). He worked closely with court-appointed Lead Counsel, Elizabeth Cabraser, spending countless hours poring over settlement documents and in meetings with VW's lawyers and the government's lawyers in order to reach a fair settlement. Indeed, at the Status Conference held on May 24, 2016, Judge Breyer even commented that he had been advised by the Settlement Master that all of the lawyers had "devoted substantial efforts, weekends, nights, and days, and perhaps at sacrifice to your family" in order to reach the proposed settlement. David Buchanan was one of the counsel on the PSC leading this effort. In addition, TerriAnne Benedetto, Scott Alan George and others spent significant hours on the case, both on the settlement and litigation tracks.

In re Vonage Marketing and Sales Practice Litigation: Seeger Weiss was co-Lead Counsel in this litigation which culminated in a nationwide settlement in the United States District Court for the District of New Jersey. The lawsuit involved Vonage's promotional "one month free" and "money back guarantee" offers and application of certain charges (disconnection, cancellation and termination fees, and subscription fees despite requests for cancellation), which allegedly violated the laws of several states. Vonage agreed to pay \$4.75 million to fund the settlement, which offered eligible class members full reimbursements for certain payments made by Vonage subscribers.

In re Whirlpool Corp. Front-Loading Washer Products Liability Litigation. This hard-fought Multi-District Litigation (relating to Whirlpool washers) pending in the Northern District of Ohio running parallel to the Butler v. Sears Roebuck & Co. (relating to Kenmore washers) pending in the Northern District of Illinois provided substantial relief to owners of early-year



Whirlpool and Kenmore front-loading washing machines which are prone to develop mold and foul smells in ordinary use. With two members on the Plaintiffs' Steering Committee (Scott Alan George and Jonathan Shub), Seeger Weiss was a leader among the firms that obtained certification of classes in both the Whirlpool and Kenmore litigations and, ultimately a substantial settlement after a bellwether trial of Ohio purchasers. Under the settlement, owners of the front-loading washers can choose among a range of benefits, including reimbursements of up to \$500 for out-of-pocket expenses for repairs or replacements due to mold or odor problems.

Securities Litigation

Seeger Weiss has emerged as a leading innovator in the realm of securities litigation, with special emphasis on IPO litigation, auction rate securities, securities fraud class action, and, recently, the Bernard Madoff Ponzi scheme. The Firm brought action against some of the largest financial entities in the world, including Goldman Sachs, Morgan Stanley, Credit Suisse, JPMorgan Chase, Bank of America and Merrill Lynch.

IPO Litigation

In re Initial Public Offering Securities Litigation is one of the largest and most significant coordinated securities fraud prosecutions in United States history. In this coordinated action, Seeger Weiss serves on the Plaintiffs' Steering Committee and as Co-Chair of the Plaintiffs' Legal Committee. The litigation consists of 310 class actions involving IPOs marketed between 1998 and 2000. The defendants include 310 individual companies and 55 investment bank underwriters, which includes Wall Street's largest and most well-known investment houses, including Goldman Sachs, Morgan Stanley, and Credit Suisse. The class actions allege that the IPOs were manipulated by the issuers and investment banks to artificially inflate the market price of the securities of those companies by inducing customers to engage in aftermarket "tie-in" agreements in exchange for IPO allocations. The cases further allege that the investment banks extracted significant undisclosed compensation from their customers in exchange for giving them the IPO allocations. The actions are coordinated before Judge Shira A. Scheindlin in the U.S. District Court for the Southern District of New York (Manhattan).

In connection with these actions, the Firm was instrumental in defeating a recusal motion brought by certain of the underwriter-defendants in 2001, and was the principal author of the electronic data preservation protocol that was entered by Judge Scheindlin in the litigation. The Firm has been extensively involved in all phases of the litigation, which recently entered a new phase of class certification proceedings following the U.S. Court of Appeals' 2007 reversal of Judge Scheindlin's certification of six test classes.



Auction Rate Securities

Seeger Weiss is part of a consortium of law firms that have taken a leading role in bringing actions against the broker-dealers involved in the auction rate securities market's collapse. Seeger Weiss has sued UBS, DeutscheBank, Merrill Lynch, Wachovia, TD Ameritrade, Morgan Stanley, JPMorgan Chase, E*Trade, Raymond James, Wells Fargo, Oppenheimer, Bank of America and Royal Bank of Canada, alleging that they knew, but failed to disclose material facts about the auction rates market and the securities they sold to their investors, including that the securities were not cash alternatives, like money market funds but, rather, were complex, long-term financial instruments with 30-year or longer maturity dates; and that they were only liquid at the time of sale because the broker-dealers were artificially supporting and manipulating the auction market to maintain the appearance of liquidity and stability. Indeed, the broker-dealers simultaneously withdrew their support of the auction rate securities market on the same day in February 2008, resulting in its collapse. One *New York Times* reporter has referred to the collapse of the auction rates market as a "hostage crisis," in which thousands of investors, including senior citizens, have hundreds of billions of dollars in investments that they cannot access despite having been told that they were liquid investments that were as good as cash.

The Honorable Shira A. Scheindlin of the U.S. District Court for the Southern District of New York (Manhattan) has appointed Seeger Weiss to serve as Liaison Counsel in *Waldman v. Wachovia*, No. 08 Civ. 2913 (SAS) (S.D.N.Y.). Seeger Weiss also was appointed as Liaison Counsel in *Chandler v. UBS AG*, No. 08 Civ. 2697 (SAS) (LMM) (S.D.N.Y.); *Humphrys v. TD Ameritrade*, No. 08 Civ. 2912 (PAC) (S.D.N.Y.); and *Ciplet v. JPMorgan Chase & Co.*, 08 Civ. 4580 (RMB) (S.D.N.Y.). Additionally, counsel with whom Seeger Weiss is working have been appointed Lead Counsel in these and several other cases against the broker-dealers.

Securities Fraud Class Actions

The Firm holds leadership roles in a variety of national securities class action litigations. For example, Seeger Weiss LLP served as lead counsel in an action against *ATEC Group, Inc.*, in which the Firm recovered \$1.7 million for the class in the United States District Court for the Eastern District of New York. Additionally, Seeger Weiss LLP serves as lead counsel in an action against *The Miix Group*, a medical malpractice insurance carrier based in New Jersey, and several of its former and current directors and officers which is pending in the District of New Jersey, and chaired the Executive Committee in a derivative action against *Legato Systems, Inc.* in California.



The Firm also represents or has represented shareholders in a variety of securities litigations, including those against ATEC Group (E.D.N.Y.); Axonyx (S.D.N.Y.); Bell South (N.D. Ga.); Bradley Pharmaceutical (D.N.J.); Broadcom Corp. (C.D. Ca.); Buca, Inc. (D. Minn.); Cryo-Cell International, Inc. (M.D. Fl.); eConnect, Inc. (C.D. Ca.); FirstEnergy Corp. (N.D. Ohio); Friedman, Billings, Ramsey Group (S.D.N.Y.); Gander Mountain (D. Minn.); Genta (D.N.J.); officers and directors of Global Crossing (C.D. Ca.); Grand Court Lifestyles, Inc. (D.N.J.); Impath (S.D.N.Y.); IT Group Securities (W.D. Pa.); Mattel, Inc. (C.D. Ca.); Matrixx Initiatives (D. Ariz.); MBNA (D. Del.); MIIX Group (D.N.J.); Molson Coors Brewing Company (D. Del.); Mutual Benefits Corp. (S.D. Fla.); New Era of Networks, Inc. (M.D.N.C.); Nuance Communications (N.D. Ca.); NVE Corporation (D. Minn.); Omnivision Technologies, Inc. (N.D. Ca.); Par Pharmaceuticals (D.N.J.); Pixelplus, Co. (S.D.N.Y.); Procter & Gamble Co. (S.D. Ohio); Priceline.com (D. Conn.); Purchase Pro (S.D.N.Y.); Quintiles Transnational (D. Colo.); Read Rite Corporation (N.D. Ca.); Sagent Technology (N.D. Ca.); Sina Corporation (S.D.N.Y.); The Singing Machine, Inc. (S.D. Fl.); Terayon, Inc. (C.D. Ca.); and Tesoro Petroleum Corp. (E.D. Tex.); Viisage Technology, Inc. (D. Mass.), among others.

Madoff Investment Securities Litigation

Seeger Weiss LLP has moved to the forefront of litigation against Bernard L. Madoff Investment Securities, the engine of Madoff's \$50 billion Ponzi scheme, and has been retained to represent more than \$500 million in claims from defrauded shareholders around the world. Madoff's brand of deception, though similar to a pyramid scheme, proved far more insidious because it relied Madoff's good standing and the fundamental trust the trading community placed in his abilities. Investors were lead to believe that their investments would be handled competently by Madoff and that their returns would be produced through sound investments. Thousands of investors and institutions have been defrauded by Madoff and his firm.

Seeger Weiss, along with co-counsel from Milberg LLP, filed a petition in April 2009 that, if granted, could make Madoff's personal assets available for investors to recover a portion of their investments. The petition was filed soon after Judge Louis Stanton reversed an earlier decision that blocked that option. The SEC and the prosecution maintained that nearly all of Madoff's personal assets were linked to his financial crimes, and personal bankruptcy could delay recovery by victims of his Ponzi scheme, but Judge Stanton disagreed, and reversed the prior holding.

General Complex Class Action Litigation

Seeger Weiss has long excelled at general complex class action litigation, having achieved major victories in the past and working on several important class action cases in the present, against large agricultural and pharmaceutical corporations.

Bayer CropScience Rice Contamination MDL. The Firm served as a member of the court-appointed Plaintiffs' Executive Committee in this MDL brought on behalf of national ricegrowers who sought to recover damages against Bayer CropScience and numerous parents and affiliates to the value of their rice crops resulting from contamination by LLRICE 601 and LLRICE 604, varieties of long-grain rice that have been genetically modified to produce rice crops resistant to glufosinate—the active ingredient in Liberty[®] Herbicide, another Bayer product. This "glufosinate-tolerant" trait allows growers to spray Liberty® herbicide over the entire crop, killing all weeds without risking any damage to the rice crop. Following revelations in August 2006 and again in March 2007 that U.S. rice crops had been found to be contaminated with these varieties (which, at the time, had not been approved for commercial use), the world's leading importers of American rice, including the European Union, Japan, and South Korea, quickly announced embargoes of U.S. rice, triggering sharp declines in the market price of U.S. rice. The JPML centralized these actions, and others similar, before the Honorable Catherine D. Perry of the U.S. District Court for the Eastern District of Missouri (St. Louis). Following the district court's denial of class certification, the cases proceeded to completion of discovery and trial. Following multiple bellwether trials before Judge Perry, both resulting in significant victories for the Plaintiffs, the parties entered into a global settlement totaling \$750 million.

In re "StarLink" Corn Products Litigation. Similar to the rice contamination litigation against the Bayer companies, this litigation was centralized by the JPML in the U.S. District Court for the Northern District of Illinois, Eastern Division (Chicago). The U.S. Environmental Protection Agency had licensed "StarLink" brand corn—which had been genetically-modified to create its own insecticidal protein, making it resistant to various corn pests—only for the growing of corn used for animal feed and industrial purposes (such as the growing of corn for manufacturing ethanol), was found to have entered the U.S. food chain. The news swiftly led to Japan and other major overseas buyers of U.S. corn placing embargoes on American corn, and the resulting collapse of the export market for U.S. corn and a sharp decline in the market price of U.S. corn. The Firm was one of four court-appointed co-lead counsel for a class of corn farmers in various corn-belt states against Aventis CropScience USA—the developer of StarLink corn seed (which was later purchased by Bayer AG and became Bayer CropScience, the developer of the genetically-modified rice seeds that are the sources of the rice contamination litigation in which the Firm is currently involved)—and Garst Seed Company, the principal licensee and distributor of the corn seed. In the actions, the corn growers sought damages representing the loss in value of their corn crops due to the improper marketing, handling, and



distribution of StarLink corn. In April 2003, following much discovery and the denial of the Defendants' motion to dismiss the Plaintiffs' claims, U.S. District Judge James B. Moran gave final approval to a \$110 million nationwide settlement of the class claims.

OxyContin Third-Party Payor Litigation. Seeger Weiss has been appointed co-lead counsel in a proposed class action pending in the U.S. District Court for the Southern District of New York (Manhattan) before the Honorable John G. Koeltl. The litigation against the drug's maker, Purdue Pharma LLP, involves the marketing and promotion of OxyContin. In 2007, Purdue pled guilty to federal violations of misbranding of OxyContin, for which it was fined over \$600 million in criminal and civil penalties. The Firm represents insurance providers and other "third-party payors," including self-funded health plans, which have purchased, reimbursed, or otherwise paid for OxyContin for their plan members or participants. The Plaintiffs assert violations of federal RICO and state consumer fraud statutes. Specifically, they allege that, as a result of Defendants' fraudulent over-promotion and off-label promotion of OxyContin, members of the class paid a much higher price, for many more prescriptions, than they would have absent Defendants' fraudulent over-promotion. After discovery, spirited negotiations, and briefing and argument on Purdue's motion to dismiss the complaint, Seeger Weiss secured a \$20 million settlement, which received preliminary approval from the district court in December 2008. A final approval (fairness) hearing is scheduled for May 15, 2009.

Environmental and Toxic Tort Litigation

Seeger Weiss has brought several environmental and toxic tort cases on behalf of homeowners, small landowners and farmers who have suffered from environmental damage and degradation.

Factory Hog and Poultry Farm Environmental Litigation. The Firm was involved in the prosecution of various environmental and common law claims against several of the nation's largest industrial hog and poultry farm operators. These cases, which were filed in various jurisdictions throughout the country, were brought on behalf of riparian property owners and other residents in the vicinity of factory hog and poultry farms who suffered from atmospheric degradation caused by the illegal discharge of harmful toxins and other pollutants contained in the enormous quantities of hog and poultry feces and other wastes produced by the industrial farmer defendants. The Firm served as co-lead counsel in several of these actions. For example, the Firm served as court-appointed co-lead counsel in an action in the state District Court of Mayes County, Oklahoma pertaining to environmental damages to the Grand Lake O'Cherokees caused by the disposal of massive quantities of chicken litter by the operations of various major poultry integrators and their contract growers. In that action, the Firm achieved the certification of two classes of owners of property around the 44,000-acre lake after a three-day hearing by the District Court, and that ruling was only narrowly overturned by the Oklahoma appellate courts



during nearly two and one-half years of appeals. The Firm dismissed these claims following the class decertification.

Hog Odor Nuisance Litigation. In September 2006, following a three-week trial in which Firm partner, Stephen A. Weiss, served as co-lead trial counsel, a state court jury sitting in Jackson County, Missouri returned a \$4.5 million combined verdict against industrial hog producers Premium Standard Farms, Inc. and ContiGroup Companies, Inc. in favor of six neighbors of the Defendants' vast farm operations in northern Missouri. In March 2010, a group of fifteen neighbors brought Premium Standard Farms before the state court again, alleging that the overpowering hog odors had not abated since the original trial. A Jackson County jury awarded the plaintiffs an \$11.05 million verdict. This verdict is the largest monetary award against a hog farm in an odor nuisance case. Following these verdicts, Mr. Weiss served as lead negotiator of a global settlement that successfully resolved approximately 300 related claims against these Defendants on a confidential basis.

Lead Poisoning Litigation. The Firm represented families and property owners living within Tar Creek, one of the nation's most notorious hazardous waste sites, situated within the former Picher Mining Field in Northeast Oklahoma. The site had ranked consistently near the top of EPA's National Priorities List for over a decade. Seeger Weiss pursued two types of cases on behalf of the residents: claims on behalf of seven minor children who have irreversible brain damage as a result of exposure to the lead left behind by the mining companies; and a prospective class of residents whose properties have been devalued and who have been exposed to this toxic mining waste. These claims were successfully resolved through confidential settlements.

Chinese-Manufactured Drywall. Seeger Weiss is currently pursuing action against Chinese manufacturers of contaminated drywall, which is reported to contain high levels of hydrogen sulfides, compounds that when exposed to prolonged heat or humidity, release sulfur gasses resulting in terrible odors, metal corrosion, and physical injuries. Christopher A. Seeger was named to the Plaintiff's Steering Committee in the Chinese-Manufactured Drywall Products Liability Litigation (MDL No. 2047) by Judge Eldon E. Fallon, United States District Court, Eastern District of Louisiana. This litigation, which includes thousands of claimants asserting property damage and personal injury claims, was centralized in the Eastern District of Louisiana in June 2009 by order of the United States Judicial Panel on Multidistrict Litigation.

Mr. Seeger tried the first defective Chinese-manufactured drywall case in the country, resulting in a \$2.6 million verdict for seven Virginia families. Mr. Seeger also tried the second bellwether case, which determined whether manufacturers were responsible for damages the drywall's toxic fumes cause to plumbing, electronics, and appliances, securing a \$164,049 judgment for the Hernandez family.



With those successes, Mr. Seeger was a key part of a negotiating team that obtained a breakthrough settlement to remediate homes affected by Chinese drywall. The agreement was reached with several key defendants including Knauf Plasterboard Tianjin (KPT), builders, drywall suppliers and their insurers, and other Knauf entities, and totaled over \$1 billion in recoveries. Seeger Weiss remains engaged in litigation against the other, key manufacturer of this contaminated drywall as well as its parent corporations.

Asbestos Litigation

Seeger Weiss handles numerous lawsuits seeking compensation for victims of asbestos and mesothelioma and has recovered millions of dollars for mesothelioma victims nationwide. These cases include a \$3.1 million settlement on behalf of an auto mechanic and Navy veteran who was diagnosed with mesothelioma at age 61, and a \$2 million settlement on behalf of an 80-year-old California man who was diagnosed with mesothelioma after having worked on shipyards in California and across the country.

Fair Labor Standards Act Litigation

Seeger Weiss LLP is engaged in a wide variety of Fair Labor Standards Act ("FLSA") litigation matters representing aggrieved employees in courts throughout the country. The following are examples of such FLSA actions in which the Firm is involved:

Seeger Weiss served as lead counsel in an action—titled *Schaefer-LaRose v. Eli Lilly & Co.*, which was filed in November 2006 and transferred to the U.S. District Court for the Southern District of Indiana—charging that Eli Lilly & Co. had a common practice of refusing to pay overtime compensation to its pharmaceutical representatives—including Sales Representatives, Senior Sales Representatives, Executive Sales Representatives, Senior Executive Sales Representatives, and those with similar job descriptions and duties—in violation of the federal FLSA. The plaintiffs, Lilly employees who promoted or detailed pharmaceutical products to medical professionals, alleged that Lilly unlawfully characterized its employees as exempt in order to deprive them of overtime pay. In February 2008, the court approved Plaintiffs' motion to conditionally certify the case as a collective action—the FLSA equivalent of a class action. The class consisted of approximately 400 current and former pharmaceutical representatives employed by Lilly across America.

Seeger Weiss was also co-counsel in a similar federal collective action lawsuit charging that Pfizer Inc. had adopted a common practice of refusing to pay overtime compensation to its



pharmaceutical representatives—including Professional Healthcare Representatives, Therapeutic Specialty Representatives, Institutional Healthcare Representatives, Specialty Healthcare Representatives, Specialty Representative, and Sales Representatives—in violation of the FLSA. That action, *Coultrip v. Pfizer Inc.*, was filed in October 2006 in the U.S. District Court for Southern District of New York. In August 2008, that court granted Plaintiffs' motion to certify the case as a FLSA collective action.

The FLSA litigations against the various drug-makers were extremely hard fought and led to a split among the circuit courts of appeals, with the Seventh Circuit affirming the district court's grant of summary judgment in favor of Eli Lilly and the Ninth Circuit similarly holding in favor of defendant SmithKline Beecham, while the Second Circuit held in favor of the plaintiffs in a cognate action brought against Novartis. The claims wound their way up to the U.S. Supreme Court, where a sharply-divided Court affirmed the Ninth Circuit in a 5-4 decision in June 2012. Seeger Weiss partner Stephen A. Weiss and Counsel James A. O'Brien III (who argued the plaintiffs' appeal in the Seventh Circuit) spearheaded the litigation for Seeger Weiss.

Pension and ERISA Litigation

Seeger Weiss has represented thousands of clients whose employers recklessly tampered with their retirement benefits.

Schol v. Bakery and Confectionary Union and Industry Int'l Pension Fund. Seeger Weiss represented eight former union employees of the Entemann's Bakery in Bay Shore, New York and two from the now-shuttered Keebler Food Co. plant in Denver, in a class action lawsuit filed against the Bakery and Confectionery Union and Industry International Pension Fund. Many of these and other union workers accepted "buy-out" offers from the company as it downsized its personnel in recent years or accepted management positions, based on the understanding and expectation that they would qualify for a full pension under alternative formulas known as Plan G and Plan C, or more commonly the "Golden 80" and "Golden 90" options, respectively, whereby pension plan participants could quality for a full pension if their age and combined years of service added up to 80 and 90, respectively. But as of July 1, 2010, Pension Plan participants not already eligible for their full pension under the Golden 80 and 90 formulas lost their right to qualify for those pensions if they were no longer in working in covered (unionized) employment. The result of this amendment was that participants could qualify for a full pension only at age 65 and the only early retirement pension available to them was a reduced benefit hat was as much as 60% lower than the Golden 80 and 90 pensions. The Schol action—the first one of several filed in the country to challenge the pension plan amendment—was filed in the U.S. District Court for the Eastern District of New York and subsequently transferred to the Southern District of New York (in White Plains, New York), where it was consolidated with a similar action, Alcantara v. Bakery and Confectionary Union and Industry Int'l Pension Fund. In June 2012, Judge Vincent L. Briccetti granted Plaintiffs' motion for judgment on the pleadings, agreeing with Plaintiffs that the Pension Plan's 2010 amendment violated ERISA's prohibition against the cutback of accrued pension benefits.



Judge Briccetti agreed that the pension Plaintiffs had been promised and were earning credits toward was an accrued benefit, and could not be reduced merely because they had not already reached the required number of total credits of age plus years of service before last July 1, 2010. In May 2014, the U.S. Court of Appeals for the Second Circuit affirmed Judge Briccetti's decision in a published opinion, *Alcantara v. Bakery & Confectionery Union & Indus. Int'l Pension Fund Pension Plan*, 751 F.3d 71 (2d Cir. 2014). The victory secured by Seeger Weiss and its co-counsel has benefitted over 540 Pension Plan participants. The case was successfully prosecuted by Seeger Weiss partner Diogenes P. Kekatos .

In re Delta Air Lines Inc. Seeger Weiss served as Lead Counsel in a nationwide ERISA multidistrict litigation centralized by the JPML in the federal court in Atlanta, Georgia before the Honorable Julie E. Carnes. The Firm represented active and retired Delta Air Lines pilots challenging various company pension plan amendments and practices that had caused them to forfeit accrued and vested pension benefits. Plaintiffs challenged, among other things, the methodology employed by Delta in calculating and paying lump sums of pension benefits to pilots, the company's retroactive freeze of a benefit formula previously pegged to increases in investment performance, and automatic reductions of pension benefits of married retirees hired before 1972. In September 2005, the federal court in Atlanta granted final approval to a class action settlement providing for payment of \$16 million in cash to certain retired Delta pilots hired before 1972 or their spouses or beneficiaries and 1 million stock purchase warrants to lump sum pension benefits recipients. The settlement represented a significant recovery in light of Delta Air Lines' rapidly-deteriorating financial plight, with the court's final approval coming only days before Delta filed for bankruptcy protection. Seeger Weiss continued to represent Plaintiffs and class members through a number of twists and turns in the bankruptcy proceedings and beyond, and vigorously fought for and, in 2008, secured the complete and final distribution of all settlement proceeds to the class members.

In re BellSouth Corp. ERISA Litigation. Seeger Weiss represented tens of thousands of aggrieved BellSouth management employees in a class action suit against the company and the administrators of the employees' 401K plan, in connection with "Enron-like" breaches of fiduciary duty. These claims stemmed from Defendants' failures to advise employees of investment diversification options and their having created a falsely optimistic outlook in Defendant BellSouth's stock as a prudent investment for the plan. Defendants encouraged employees to invest their earnings in company stock at a time when the company was noting positive operating results, artificially-optimistic revenue growth, and other financial indicators that were found to be materially false, including revelations of accounting irregularities and losses from the company's risky venture into the highly-speculative Latin American wireless phone market. In 2006, after considerable motion practice and discovery in the litigation, the federal court in Atlanta, Georgia, which oversaw the litigation, granted final approval to a class action settlement that provides for, among other things, BellSouth to make matching 401K plan contributions to employees for a three-year period in cash rather than company stock; for



employees during that period to have the same investment options for the company's matching contributions as they have for their own contributions; the availability of certain additional investment choices; and during that period a guaranteed minimum percentage for one of the components in the formula used to determine the company's matching contributions.

Insurance Litigation

For over a decade, the Firm has played a pivotal role in many notable insurance market practices class actions brought against members of the life insurance industry. These nationwide suits resulted from alleged misrepresentations made in connection with the sale of certain life insurance products, including "vanishing premium" policies which, due to market-sensitive dividend projections, required customers to pay premiums on a more prolonged basis than originally expected. The Firm has also reviewed annuity claims in the Claims Review Process.

The firm serves on the Plaintiffs' Executive Committee in the multidistrict *Aetna UCR Litigation* (MDL No. 2010), pending before Judge Katherine Hayden in the United District Court for the District of New Jersey. That litigation raises ERISA and other claims against Aetna, Ingenix, and UnitedHealth Group pertaining to reimbursement rates for out-of-network heath care services. The insurers were reported to have knowingly created and used flawed data – a rigged database created by Ingenix, which was once the largest provider of healthcare billing information in the country and is now a subsidiary of UnitedHealth Group – to produce reimbursements often far below genuinely usual, customary, and reasonable rates.

In 1995, the firm was appointed as the national Policyowner Representative in *Wilson v. New York Life Insurance Company* sales practices litigation, the first settlement of a nationwide class action relating to the vanishing premium insurance product. *Wilson* involved claims brought by a class of approximately 3.2 million New York Life policyowners who suffered damages as the result of allegedly improper sales practices by the company and its agents, including the alleged failure to properly disclose the market-sensitivity of the company's premium payment projections. As Policyowner Representative, the firm served as the principal advocate on behalf of members of the class who elected to pursue individual claim relief before independent appeal boards.

Following its appointment in the *New York Life* litigation, the firm served as the Attorney Representative in the *In re Prudential Life Insurance Sales Practices Litigation*. In that role, the firm, and others serving under its auspices, represented individual class members in connection with over 53,000 separate claim arbitrations.

In addition to the *New York Life* and *Prudential* matters, the firm has served as the Policyowner Representative, Attorney Representative, or Claim Evaluator in the following



insurance and annuity sales practices class actions: Ace Seat Cover Company v. The Pacific Life Insurance Co.; Benacquisto v. American Express Financial Corporation; Duhaime v. John Hancock Mutual Life Ins. Co.; Garst v. The Franklin Life Insurance Co.; In re General American Life Insurance Co. Sales Practices Litigation, In re Great Southern Life Insurance Co. Sales Practices Litigation; Grove, et al. v. Principal Mutual Life Insurance Co.; Joseph F. Kreidler, et al. v. Western-Southern Life Assurance Co.; Lee v. US Life Corp.; In re Lutheran Brotherhood Variable Products Co. Sales Practices Litigation; Manners and Philip A. Levin v. American General Life Insurance Co.; In re Manufacturers Life Insurance Co. Premium Litigation; In re Metropolitan Life Insurance Co. Sales Practices Litig.; Moody v. American General Life and Accident Insurance Co.; In re New England Mutual Life Insurance Company Sales Practices Litigation; Roy v. Independent Order of Foresters; Murray v. Indianapolis Life Insurance Co.; Snell v. Allianz Life Insurance Company of North America; In re Sun Life Assurance Company of Canada Insurance Litigation; Varacallo, et al. v. Massachusetts Mutual Life Insurance Co.; and Wemer v. The Ohio National Life Insurance Co.

Nursing Home Litigation

Seeger Weiss LLP has served as counsel in over two dozen personal injury and wrongful death actions on behalf of victims of severe nursing home abuses and neglect. These cases, both pending and settled, were litigated in various state courts throughout the country and have earned the Firm a national reputation in the area of nursing home litigation.

Personal Injury Litigation

The Firm maintains a highly-selective docket of matters involving serious personal injury or wrongful death. Unlike many personal injury practices in which attorneys may handle hundreds of slip-and-fall matters at a time, the Firm's philosophy is to allow its attorneys to concentrate on a smaller number of "high-end" catastrophic injury cases, thereby permitting the highest quality of attention and service available in the field.

In re National Football League Players' Concussion Injury Litig. Christopher Seeger served as co-lead counsel to NFL players and lead negotiator in the NFL concussion litigation, multidistrict litigation involving thousands of lawsuits brought by former NFL players that the JPML ordered centralized in the Eastern District of Pennsylvania), in which the players alleged that the League had suppressed information concerning the linkage between repeated head trauma and serious neurological ailments. The litigation has gained significant media attention.



Judge Brody appointed Seeger Weiss founding partner Christopher A. Seeger as Co-Lead counsel for the Plaintiffs, and several other Seeger Weiss partners and other attorneys, including David R. Buchanan and TerriAnne Benedetto, have been actively involved in the litigation. The settlement was achieved after many months of spirited negotiations led by Mr. Seeger, including before a court-appointed mediator.

The settlement will provide an uncapped Monetary Award Fund for 65 years which will pay all valid claims for certain neuro-cognitive impairments, with individual awards of up to \$5 million; \$75 million to fund a Baseline Assessment Program Fund that will offer eligible retired NFL players a baseline neuropsychological and neurological examination to determine the existence and extent of any cognitive deficits, and in the event retired players are found to suffer from moderate cognitive impairments certain supplemental benefits in the form of specified medical treatment and/or evaluation, including, as needed, counseling and pharmaceutical coverage; and a \$10 million Education Fund to fund safety and injury-prevention programs for football players.

The U.S. Court of Appeals rebuffed the effort of a small group of objectors to challenge the preliminary approval determination in an opinion published at 775 F.3d 570. After extensive proceedings, culminating in a final approval hearing in November 2014, Judge Brody approved the settlement in an exhaustive opinion issued in April 2015 (published at 307 F.R.D. 351), agreeing with Seeger Weiss and its co-counsel that the objections to the settlement lodged by a small percentage of class members lacked merit. In May 2016, a U.S. Court of Appeals for the Third Circuit panel unanimously affirmed Judge Brody's final approval determination in a published opinion and denied rehearing *en banc*. And finally, in December 2016, the United States Supreme Court denied a petition for certiorari relating to the settlement. The denial of certiorari removed the final obstacle to implementation of the landmark settlement.

In addition to Christopher Seeger, partners David Buchanan and TerriAnne Benedetto and counsel Scott Alan George are responsible for this litigation.

Wildcats Bus Crash Litigation. In June 2009, Seeger Weiss was lauded for its staunch representation of 11 victims and their families in the Wildcats Bus Accident Case, after the defendants' agreed during trial to accept 100% of the responsibility for the tragic crash. The horrific accident, which resulted in four fatalities and countless other serious injuries, occurred when a Coach Canada bus carrying an "under 21" Canadian female hockey team named the Wildcats veered off of Interstate 390 near Rochester, New York and struck a parked tractor-trailer on the shoulder of the roadway. Led by Christopher Seeger, Moshe Horn and Marc Albert, the Seeger Weiss team took more than 20 depositions, reviewed thousands of pages of documents and retained multiple experts in preparation for the trial in the Supreme Court,



Livingston County. Seeger Weiss represented a total of eleven victims of the accident and their families. In March 2010, a jury awarded \$2.25 million to three of the victims and their families, who were represented by partners Moshe Horn and Marc Albert. Following this verdict, the Firm successfully negotiated a global settlement of \$36 million on behalf of all of the Wildcats bus accident victims.

Other Personal Injury Matters. Partner Christopher A. Seeger represented a six-year-old boy and his family in a medical malpractice action against a hospital for failing to timely diagnose meningitis, which resulted in severe brain damage to the boy. The case settled for \$3.25 million in the Supreme Court of Kings County.

Partners Christopher A. Seeger and Stephen A. Weiss represented the wife and two minor children of a 41-year-old successful technologist who was tragically killed when a boat upon which he was a passenger collided with the Greenport Breakwater, a 1,000 foot long structure constructed of large boulders in Greenport, Long Island. The victim was thrown from the boat upon impact and ultimately drowned. This case was settled for \$2.9 million.

Seeger Weiss secured a \$1.4 million verdict for client Debbie D'Amore in her case against Met Life and American Building Maintenance for serious injuries which she suffered as a result of a fall on July 13, 2004 at the Met Life Building in New York City. Ms. D'Amore was vigorously represented by Christopher Seeger and Marc Albert of Seeger Weiss LLP over the course of the week-long trial held before the Honorable Judge Michael Stallman of the Supreme Court, New York County. The jury deliberated over a two day period and returned with a \$1.4 million verdict, \$1 million of which was awarded for Ms. D'Amore's past pain and suffering, with \$400,000 awarded for future pain and suffering. The jury found defendants Met Life and its cleaning contractor, American Building Maintenance responsible for the fall and the serious injuries which Ms. D'Amore sustained as a result. Ms. D'Amore suffered a tri-malleolar ankle fracture in the fall which required multiple surgeries, including ultimately, an ankle fusion.

Antitrust Litigation

Seeger Weiss LLP has been involved in nationally-prominent antitrust litigation, where it has recently expanded its presence.



Compact Disc Litigation. Seeger Weiss was involved in this consumer antitrust litigation, which sought damages against the wholesale sellers of pre-recorded music sold in the form of compact discs. The Plaintiffs alleged that the Defendants had conspired to artificially inflate the retail prices of compact discs in violation of the Sherman Act. The litigation was settled favorably in the United States District Court for the District of Maine, where the litigation had been centralized for coordinated pretrial proceedings by the JPML.

McDonough v. Toys "R" Us, Inc. Seeger Weiss represents a proposed class of consumers and smaller retailers of baby and juvenile products against Babies "R" Us (an affiliate of the Toys "R" Us chain) and several manufacturers of baby products, including strollers, bedding, car seats, and other items, in consolidated actions pending in the U.S. District Court for the Eastern District of Pennsylvania (Philadelphia) before the Honorable Anita B. Brody. The Plaintiffs allege that Babies "R" Us conspired with the manufacturers of baby products in a scheme whereby the manufacturers required other retailers to sell their products at prices above those being charged by Babies "R" Us. As a result, Babies "R" Us was able to monopolize the retail market, resulting in consumers being forced to pay more for baby products. The district court denied the Defendants' motion to dismiss the consolidated complaints. Briefing of Plaintiffs' motion for class certification has been completed, and a decision from the court is expected shortly.

Monsanto Genetically-Modified Soybean and Corn Seed Litigation. The Firm serves as Co-Lead Counsel in Schoenbaum v. E.I. DuPont de Nemours and Company, thirteen consolidated proposed class actions against Monsanto Company, E.I. DuPont de Nemours and Company, and Pioneer Hi-Bred International Inc. currently pending before the Honorable E. Richard Webber in the U.S. District Court for the Eastern District of Missouri (St. Louis). These lawsuits, brought on behalf of farmers who purchased genetically-modified Roundup Ready soybean and YieldGard corn seeds, allege violations of federal and state antitrust, state unfair trade practices statutes, and common law claims for unjust enrichment. The claims stem from the defendants' conspiracy to fix the price of these seeds through the imposition of "technology fees," ostensibly for the purpose of allowing Monsanto to recoup its research and development costs of those seed products but which, in reality, capitalized on and exploited Monsanto's development of those seeds in order to monopolize -the market for those seeds and thereby charge and collect premium prices. After extensive briefing, both pre- and post-argument, and an all-day hearing on the Defendants' motion to dismiss the Plaintiffs' Master Consolidated Amended Action Complaint, the district court sustained most of Plaintiffs' claims. Following spirited motion practice, which included discovery disputes and the Plaintiffs' motion for leave to file an amended complaint in order to, among other things, assert additional claims against Monsanto for misuse of patent, Plaintiffs reached individual settlements with all of the



defendants. The settlements will provide a significant recovery to each of the more than two dozen named Plaintiffs.

In re Packed Ice Antitrust Litigation. The Firm represents direct purchasers of packaged ice in a proposed class action brought against the five American and Canadian manufacturers and distributors who possess the dominant share of the \$2.5 billion per year packaged ice industry in North America. The Firm has been appointed Co-Chair of the Class Certification Committee in that litigation. Plaintiffs allege that Defendants have violated the antitrust laws by conspiring to fix prices and allocate market share for packaged ice. The U.S. Justice Department's Antitrust Division commenced an investigation into the packaged ice industry sometime prior to March 2008 and grand jury subpoenas were issued to the Defendants. The cases from around the country have been centralized in the U.S. District Court for the Eastern District of Michigan, and a hearing will be held in March 2009 respecting the selection of Lead Counsel.

In re Rail Freight Fuel Surcharge Antitrust Litigation. The Firm represents shipping customers in a proposed class action brought against the country's four major railroads for antitrust violations. The Defendants in this multidistrict litigation, pending in the U.S. District Court for the District of Columbia, are alleged to have conspired to fix the prices of "rail fuel surcharges" above competitive levels, causing the Plaintiffs to pay exorbitant rates for unregulated rail freight transportation services—rates that were unrelated to fuel costs. The district court denied the Defendants' motions to dismiss the direct purchasers' claims and the indirect purchasers' federal antitrust claims. The district court held a two-day hearing on Plaintiffs' motion for class certification in October 2010 and, in June 2012, issued an exhaustive 145-page decision, granting the motion. In August 2013, the D.C. Circuit remanded the case for further proceedings, principally in light of the Supreme Court's then-recent decision in Comcast Corp. v. Behrend, 133 S. Ct. 1426 (2013). Further proceedings have been conducted on remand, including additional expert witness discovery and voluminous briefing. The district court will soon hold a multi-day hearing on the class certification motion. Seeger Weiss serves as Co-Chair of the Law and Briefing Committee.

Other Commercial Litigation

In addition to its diverse complex litigation practice, Seeger Weiss LLP is engaged in a wide variety of commercial litigation matters representing individuals and businesses in state and federal courts throughout the country. The following are examples of such commercial actions in which the Firm is involved:

Automobile Dealership Warranty Litigation: The Firm represents dozens of franchised automobile dealerships located throughout New York State in separate actions against the "Big Three" automobile manufacturers — Ford, General Motors, and DaimlerChrysler. These actions



are pending in federal court in New York and are based on the manufacturers' failure to comply with the New York State Vehicle & Traffic Law § 465. These actions assert claims that in violation of New York State statute and the franchise agreement that governs the relationship between the dealerships and the factories, the manufacturers have failed to adequately reimburse the dealerships for parts used in performing repairs pursuant to the manufacturers' warranties. In addition to the three federal court actions, the Firm also represents close to a dozen franchised Chrysler dealerships in arbitrations pending before the American Arbitration Associations asserting the same claims.

Arzoomanian v. British Telecommunications PLC. The Firm represented a small businessman who had brokered a multi-million dollar global telecommunications deal between two multi-national corporations, British Telecommunications PLC ("BT") and Unilever PLC, and then was cut out of the deal by the companies and refused his fee. In 2004, the Firm successfully overcame BT's motion to dismiss the action on *forum non conveniens* grounds (in which BT argued that the action should not have been brought in the United States). After extensive discovery—both in the United States and overseas—and further motion practice, the case was settled in 2007. This is one of a number of cases that the Firm has handled on behalf of small businesses which have been wronged by behemoth corporations.

In re ETS Praxis Principles of Learning and Teaching: Grades 7-12 Litigation is a consolidated national class action on behalf of more than 4,100 prospective teachers as to whom ETS negligently and wrongfully reported failing scores on the Praxis Principles of Learning and Teaching test for grades 7 through 12 (the "PPLT" test) during the period from January 2003 through April 2004. The PPLT is a test that is required in many states in order for teachers to obtain their teaching certification. In December 2004, the various class actions filed around the country were transferred to the Honorable Sarah Vance of the United States District Court for the Eastern District of Louisiana (New Orleans). Judge Vance appointed Seeger Weiss LLP to the position of State Court Litigation Liaison Counsel. This case was settled in 2006 for \$11.1 million.

HMO Litigation. The Firm was counsel to individual doctor-members of the Connecticut State Medical Society ("CSMS") and the Medical Society of the State of New York ("MSSNY") in connection with various putative statewide class actions filed in Connecticut and New York state courts, respectively against several national health management organizations (HMOs). The class members sought damages resulting from the defendants' improper, unfair and deceptive practices designed to deny, impede or delay lawful reimbursement to CSMS and MSSNY physicians which rendered necessary healthcare services to members of the HMO managed care plans. The case was successfully resolved.



VOIP, Inc. v. Google, Inc. The Firm represents VOIP, Inc. in a trade secrets and breach of contract action filed in New York State Supreme Court in February 2011. The suit claims that Google developed its "Click to Call" feature, which allows users to make Internet phone calls by just clicking on a link, using misappropriated VoIP trade secrets.



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Selected Attorney Biographies

Partners

Christopher A. Seeger

Position: Founding Member Co-Managing Partner.

Admitted: New Jersey, 1990; New York, 1991;

U.S. District Court for the Southern District of New York and U.S. District Court for the District of New Jersey, 1991; U.S. District Court for the Eastern District of New York, 2000; U.S. District Court for the District of Colorado, 2011.

Education: Hunter College of the City University of New York (B.A., *summa cum laude*, 1987); Benjamin N. Cardozo School of Law (J.D., *magna cum laude*, 1990).

Honors: Managing Editor, Cardozo Law Review.

Author: "The Fixed Price Preemptive Right in the Community Land Trust Lease," 11 Cardozo Law Review 471, 1990; "Developing Assisted Living Facilities," New York Real Estate Law Reporter, Volume XII, Number 10, August 1998.

Lecturer: "The Use of ADR in Class Actions and Mass Torts," New York University School of Continuing and Professional Studies, October 13, 2000.

Director: American Friends of Rabin Medical Center, Inc.; Benjamin N. Cardozo School of Law, Yeshiva University, 1999-2000.

Co-Chair: Cardozo Law School Alumni Annual Fund, 1998-2000.

Awards: Best Lawyers in America, 2006, 2012; New York Super Lawyer, 2006-2013; New Jersey SuperLawyers, 2006-2014; Law Dragon 500, 2007-2013; Best Lawyers, Mass Tort Litigation; Hunter College Hall of Fame, 2007; Cardozo Alumnus of the Year, 2009.

Member: The Association of the Bar of the City of New York; New Jersey State Bar Association; Board of Advisors, New York Real Estate Law Reporter; Annual Fund Committee, 1999-present; American Bar Association; American Association for Justice, Trail Lawyers for Public Justice; Fellow, American Bar Foundation.

Practice Areas: Consumer Fraud, Products Liability, Antitrust; Insurance, Class Actions, Mass Torts.



Stephen A. Weiss

Position: Founding Member and Co-Managing Partner.

Admitted: New York, 1991; U.S. District Courts for the Southern and Eastern Districts of New York, 1991.

Education: Brandeis University (B.A., 1986); Benjamin N. Cardozo School of Law (J.D., 1990). Honors: Business Editor, Cardozo Law Review, 1989-1990.

Author: "Environmental Liability Disclosure Under the Federal Securities Law," Law Education Institute, Inc., 1998; "Liability Issues and Recent Case Law Developments Under CERCLA, New Environmental Issues of Liabilities of Government Agencies & Government Contractors," Federal Publications, Inc., Chapter 4, 1995; "New York Proposes Legislation to Restrict Shareholder Derivative Suits," Insights, Vol. 8, No. 3, p. 24, 1994; "Suretyship as Adequate Protection Under Section 361 of the Bankruptcy Code," Cardozo Law Review, Vol. 12, p. 285, 1990.

Director or Officer: Benjamin N. Cardozo School of Law, Yeshiva University, 2000-present; New York State Trial Lawyers Association, 2012-present; New York State Academy of Trial Lawyers, Vice President,1st Department, 2012-2013.

Co-Chair: Cardozo Law School Alumni Annual Fund, 1998-2000.

Awards: International Humanitarian Achievement Award, Shaare Zedek Medical Center, 2002; Trial Lawyer of the Year, Finalist, Public Justice Foundation, 2010.

Member: American Association for Justice; American Bar Association; Badge of Honor Memorial Foundation, General Counsel, 2008-present.

Practice Areas: Complex Litigation, including Antitrust, Consumer, Employment, Environmental, Insurance, Products Liability, Pharmaceutical, Qui Tam and Securities Litigation.

David R. Buchanan

Position: Member.

Admitted: New Jersey, 1993; New York, 1994; U.S. District Court for the District of New Jersey, 1993; U.S. District Court for the Southern District of New York, 1994; U.S. District Court for the Eastern District of New York, 1999.

Education: University of Delaware (B.S., 1990); Benjamin N. Cardozo Law School (J.D., magna cum laude, 1993)

Honors: Samuel Belkin Scholar, 1993; Member, 1991-93, and Administrative Editor, 1992-93, *Cardozo Law Review*.

Awards: Best Lawyers in America, 2007, 2012; New York Super Lawyer, 2007; Legal 500; Law Dragon 3000

Member: American Bar Association (Litigation, Intellectual Property sections).

Practice Areas: Complex and Mass Tort Litigation, including Antitrust, Consumer, Environmental, Insurance, Intellectual Property, Pharmaceutical, Products Liability, and Securities Litigation.



Diogenes P. Kekatos

Position: Member.

- *Admitted*: New York, 1984; U.S. District Courts for the Southern and Eastern Districts of New York, 1984; U.S. Courts of Appeals for the Second, Third, Seventh, Eighth, Ninth, and Tenth Circuits, 1985, 2008-14; U.S. Supreme Court, 1987.
- *Education*: Columbia College, Columbia University (B.A., Dean's List all 8 semesters, 1980); Brooklyn Law School (J.D., 1983).
- *Honors*: Named to New York *Super Lawyers*, 2013-16; recipient of letters of commendation from the U.S. Court of Appeals Staff Counsels and from Attorney General Janet Reno for outstanding performance and high level of professionalism in appellate mediation, 1999.
- Experience: Special Assistant U.S. Attorney, 1986-88, and Assistant U.S. Attorney, 1988-2000; Office of the United States Attorney for the Southern District of New York, and Chief, Financial Litigation Unit, 1988-90; and Immigration Unit, 1990-2000. Has argued some 130 appeals and motions in the U.S. Court of Appeals for the Second Circuit, including a successful *en banc* rehearing, with scores of cases resulting in published opinions; and has handled hundreds of appellate mediations.
- *Awards:* Executive Office for U.S. Attorneys Director's Award for Superior Performance as an Assistant U.S. Attorney, 1996; Award from U.S. Attorney Mary Jo White for Exceptional Achievement, 1995; and numerous other award nominations.
- *Practice Areas*: Class Action and Complex Litigation, Federal Civil Litigation, Federal Appellate Litigation.

Moshe Horn

Position: Member.

- *Admitted*: New York and New Jersey, 1994; U.S. District Courts for the Southern and Eastern Districts of New York.
- Education: George Washington University (B.A., 1989); Benjamin N. Cardozo School of Law (J.D., 1993).
- *Honors*: Member of Championship team in a national Securities Law Moot Court competition at Fordham University, 1993; Winner tri-state trial competition, runner up Best Advocate, 1993.
- Experience: Assistant District Attorney, New York County, 1993-2002 (where he held numerous supervisory positions and tried 50 jury cases); Senior Associate, Kaye Scholer LLP, 2002-2004. Member of the Firm's trial team that achieved a \$47.5 million verdict for Vioxx-related cardiovascular injury in *Humeston v. Merck & Co.* in 2007 in the New Jersey Superior Court, Atlantic County. Member of the Firm's trial team that achieved a \$1.4 million verdict for Currently an Adjunct Professor of Law at Benjamin N. Cardozo School of Law, teaching "Introduction to Trial Advocacy." Has previously taught "Advanced Trial Advocacy" and "Mass Torts," and served as advisor and coach to the law school's Mock Trial Team.



Member: American Bar Association, American Association for Justice, New York State Trial Lawyers Association.

Practice Areas: Pharmaceutical and Medical Device Litigation, Personal Injury Litigation, Complex Litigation, Asbestos Litigation, Criminal Defense.

Michael L. Rosenberg

Position: Member.

Admitted: New Jersey, 1989; U.S. District Court, District of New Jersey, 1989; New York, 1990. *Education*: Rutgers-Camden School of Law (J.D., 1989), University of Delaware (B.A. 1986).

Experience: Has been with the Firm since its 1999 inception. Has negotiated individual settlements on behalf of hundreds of clients injured by pharmaceutical products, including over-the-counter medicines containing PPA and the anti-cholesterol drug Baycol. Played an integral role in the settlement of personal injury claims against the manufacturers of Dexatrim, a PPA-containing weight loss product, on behalf of 500 stroke victims who claimed that their strokes were caused by Dexatrim. The settlement is valued at approximately \$200 million. Serves as a member of the Delaco Trust Advisory Committee tasked with overseeing the administration of the settlement. Was a member of the trial team that won a \$2.6 million verdict for the Plaintiff in McCarrell v. Hoffman-La Roche, Inc, in New Jersey Superior Court, Atlantic County.

Member: American Bar Association and American Association for Justice.

Practice Areas: Complex and Mass Tort Litigation, including Pharmaceutical, Products Liability and Insurance Litigation.

Terrianne Benedetto

Position: Member.

Admitted: Pennsylvania, 1990; New Jersey, 1991; U.S. District Courts for the District of New Jersey, 1991; Eastern District of Pennsylvania, 1991; Western District of Wisconsin, 1993; New York Supreme Court, Appellate Division, Third Department, 2009; and New York Superior Court, 2009.

Education: Franklin & Marshall College (B.A., 1986); Villanova University (J.D., 1990).

Honors: Member of the Villanova Law Review; Law Clerk to the Honorable Jacob Kalish of the Commonwealth Court of Pennsylvania, and the Honorable William W. Vogel of the Montgomery County Court of Common Pleas.

Author: "Database Technology: A Valuable Tool for Defeating Class Action Certification," published in *Pennsylvania Law Weekly*, Vol. XX, No. 47, November 24, 1997, and *Mealey's Litigation Report: Lead*, Vol. 7, No. 14, April 24, 1998.

Experience: At the beginning of her career as a class action litigator, was co-counsel for defendants in *Reilly v. Gould Inc.*, 965 F. Supp. 588 (M.D. Pa. 1997); *Dombrowski v. Gould Electronics Inc.*, 954 F. Supp. 1006 (M.D. Pa. 1996); and *Ascher v. Pennsylvania Insurance*



Guaranty Association, 722 A.2d 1078 (Pa. Super. 1998). Thereafter, joined nationally recognized plaintiffs' firms where she represented individuals, small businesses and the Office of the Attorney General for the Commonwealth of Pennsylvania in numerous antitrust and consumer fraud class actions, many resulting multimillion dollar settlements, including In re Lupron Marketing and Sales Practices Litigation, MDL No. 1430 (D. Mass.); In re Pharmaceutical Industry Average Wholesale Price Litigation, MDL No. 1456 (D. Mass.); In re Graphite Electrodes Antitrust Litigation, No. 2:97-CV-4182 (E.D. Pa.); In re Magnetic Audiotape Antitrust Litigation, No. 99 Civ. 1580 (S.D.N.Y); In re Vitamins Antitrust Litigation, MDL No. 1285 (D.D.C.); In re Maltol Antitrust Litigation, No. 99 Civ. 5931 (S.D.N.Y.); In re Compact Disc Antitrust Litigation, MDL No. 1216 (C.D. Cal.); In re Flat Glass Antitrust Litigation, MDL No. 1200 (W.D. Pa.); and In re Carpet Antitrust Litigation, MDL No. 1075 (N.D. Ga.).

Member: Pennsylvania Trial Lawyers Association, Philadelphia Bar Association.

Practice Areas: Complex Commercial and Class Action Litigation, including Consumer Protection, Antitrust, Products Liability, and Securities Litigation.

Counsel

James A. O'Brien III

Position: Counsel.

Admitted: New York, 2000; Massachusetts, 1988; U.S. District Court, District of Massachusetts, 1991.

Education: University of Massachusetts at Amherst (B.A., 1984); New England School of Law (J.D., 1988).

Experience: Attorney Advisor, U.S. Department of Labor, 1988-89; Assistant District Counsel, U.S. Immigration and Naturalization Service, 1990; Special Assistant United States Attorney, 1990-2001, Southern District of New York.

Practice Areas: Class Action and Complex Litigation, Federal Civil Litigation, Federal Appellate Litigation.

Scott Alan George

Position: Counsel.

Admitted: Pennsylvania and New Jersey, 1998; U.S. District Courts for the Eastern District of Pennsylvania and the District of New Jersey, 1998; U.S. Court of Appeals for the Third Circuit, 1998; New York (2010); U.S. District Court for the Northern District Illinois (2012); U.S. District Court for the Eastern District of Michigan (2016).

Education: Stevens Institute of Technology (1984); Goddard College (B.A., 1989); Temple University School of Law (J.D., *cum laude*, 1998).

Author: Spotlight on Cost-Shifting of E-Discovery, Law 360, Nov 6, 2012 (with Jonathan Shub)



Experience: In addition to providing occasional lectures at Temple University and litigation seminar on class actions, he has been in the leadership of many complex cases and class actions, including: Pro et al. v. Hertz Equipment Rental Corporation, 06-3830 (D.N.J.) (appointed co-lead for class settlement); In re Whirlpool Corporation Front Loading Washer Products Liability Litigation, MDL 2001 (N.D.Oh.) (member of the Plaintiff Steering Committee); Alexander v. Coast Professional Services, 2:12-cv-01461 (E.D.Pa.) (appointed co-Class Counsel); Taha v. Bucks County, 2:12-cv-06867 (E.D.Pa.) (appointed class counsel); and In re Ford Fusion and CMax Fuel Economy Litigation, MDL 2450 (S.D.N.Y) (Plaintiffs Executive Committee). Additionally, he has been a key member in litigation such as: In re Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation, MDL 2672 (N.D.Ca.); In re Caterpillar, Inc., C13 and C15 Engine Products Liability. MDL 2450 (D.N.J.); In re National Football League Players' Concussion Injury Litigation, MDL 2323 (E.D.Pa.); In re Chinese Manufactured Drywall Products Liability Litigation, MDL 2047 (E.D.La.); In re Vonage Marketing and Sales Practices Litigation, MDL 1862 (D.N.J.),

Honors: Member of the Moot Court Honor Society.

Practice Areas: Complex and Class Action Litigation.

Christopher Van de Kieft

Position: Counsel.

Admitted: New York, 2003; U.S. District Courts for the Southern and Eastern Districts of New York, 2005.

Education: Johns Hopkins University (B.A., 1990), Benjamin N. Cardozo School of Law (J.D., 2002).

Honors: Editor-in-Chief, *Cardozo Law Review*; recipient of Cardozo Law School's prestigious Samuel Belkin Award, awarded each year to one graduating student for "exceptional contribution to the growth and development of the Law School."

Experience: Prior to attending law school, served in the U.S. Army from 1990-98, attaining rank of Captain. Prior to joining the Firm was an associate at Fried Frank Harris Shriver & Jacobson.

Practice Areas: Pharmaceutical and Medical Device Mass Tort Litigation; Class Action Litigation.

Associates

Parvin K. Aminolroaya

Position: Associate.

Admitted: New Jersey, 2008; New York, 2009; U.S. District Court, District of New Jersey, 2008. *Education*: Fordham University (B.A., 2004, with honors); Benjamin N. Cardozo School of Law (J.D., 2008).



Honors: Named to New York Rising Stars Super Lawyers, 2014-16; Cardozo Alumni Association Young Leadership Award, 2016; Jacob Burns Medal awarded for outstanding contribution to Moot Court; Benjamin N. Cardozo Writing Award; Editorial Board, Moot Court Honor Society; First Place Oralist Team and First Place Brief, Regional Competition of the New York City Bar Association, National Moot Court Competition, 2007; First Place Brief and Second Place Oralist Team, Fordham Irving Kaufman Securities Moot Court Competition, 2007.

Member: Executive Committee, Benjamin N. Cardozo School of Law Alumni Association; Vice-Chair, Benjamin N. Cardozo School of Law Black Asian Latino Alumni Group Association, 2012-2016.

Practice Areas: Complex Litigation, including Antitrust, Consumer, Products Liability, Pharmaceutical, and Securities Litigation.

Asim M. Badaruzzaman

Position: Associate.

Admitted: New Jersey, 2010.

Education: Rutgers University (B.A., with honors, 2006); Seton Hall University School of Law (J.D., 2009).

Honors: Best Brief Author for Appellate Advocacy, 2008; William Paterson Award, New Jersey Lawyer Chapter of the American Constitution Society.

Experience: Marketing Contractor at Anadigics, Inc., 2006-2007; Research Assistant to Professor Mark P. Denbeaux, 2007; Legal Intern to Professor Meetali Jaine at the Center for Social Justice at Seton Hall, 2007; Intern at the Civil Litigation Clinic, 2009; Law clerk at Seeger Weiss LLP, 2008; Associate at Seeger Weiss LLP, 2009.

Member: American Bar Association, New Jersey State Bar Association.

Practice Areas: Pharmaceutical Drug Injury, Medical Device Liability, Mass Tort Litigation.

Asa R. Danes

Position: Associate.

Admitted: New York State, 2004; United States District Courts for the Eastern and Southern Districts of New York, 2006 and Western District of Tennessee, 2009.

Education: Oberlin College (B.A., 1994); Brooklyn Law School (J.D., cum laude, 2001).

Honors: Notes and Comments Editor, Brooklyn Journal of International Law.

Experience: Associate at Paul, Hastings, Janofsky & Walker LLP; Law Clerk to the Honorable James T. Trimble, Jr. in the United States District Court for the Western District of Louisiana.

Practice Areas: Complex personal injury matters; mass tort, consumer fraud and securities class actions; shareholder derivative and corporate governance disputes and other commercial litigation.

Michael C. Hughes



Position: Associate.

Admitted: New Jersey, 2013; U.S. District Court, District of New Jersey, 2013, New York, 2014.

Education: Seton Hall University (B.A., 2009); Seton Hall University School of Law (J.D., 2013).

Experience: Law Clerk and Contract Attorney at Seeger Weiss, LLP; Legal Extern to Hoboken Mayor Dawn Zimmer and Office of Corporation Counsel; Legal Intern at Meadowlands Hospital Medical Center In-House Counsel; Law Clerk at Blume Donnelly Fried Forte Zerres & Molinari (formerly Blume Goldfaden Berkowitz Donnelly Fried & Forte, P.C.)

Honors: Certificate, J.D. Program Health Law Concentration

Practice Areas: Pharmaceutical Injury Litigation, Medical Device Litigation, Mass Tort Litigation.

James J. Leavy

Position: Associate.

Admitted: New Jersey, 2008; U.S. District Court, District of New Jersey, 2008.

Education: University of Phoenix (B.A., 2005, with honors 3.89/4.00); Seton Hall University School of Law (J.D., 2008).

Honors: Interscholastic Moot Court Board, Member; 2008 Lefkowitz National Moot Court Championships, 3rd Place; 2008 Lefkowitz National Moot Court Eastern Regional Champion & Best Brief Award; 2007 BMI Entertainment and Media Law Moot Court Competition, Ouarterfinalist.

Practice Areas: Mass Torts and Pharmaceutical Product Liability Litigation.

Perpetua N. MgBada

Position: Associate.

Admitted: New York, 1995; Nigeria 1984.

Education: University of Maiduguri, Bornu State (LL.B., 1983); University of Nigeria, Enugu State (LL.M., 1998).

Experience: Works on various Mass Torts and Pharmaceutical Product Liability cases, including information management, maintaining spreadsheets, case reviews, all intake related functions, reviewing medical records, preparing settlement enrollment materials, reviewing cases for ineligibility and points, preparing appeals, preparing extraordinary injury claims and uploading relevant documents to the portal, as well as handling client contact.

Practice Areas: Mass Torts and Pharmaceutical Product Liability.



Andrea Mercedes Pi-Sunyer

Position: Associate.

Admitted: New York, 1996.

Education: Oberlin College (B.A., 1987); Northeastern University School of Law (J.D., 1994).

Experience: Processes settlements obtained in the firm's pharmaceutical injury practice; Has worked with hundreds of clients in this process and has guided them through complex issues, including helping them decide whether a structured settlement or a Special Needs Trust is most appropriate for their needs; Has significant experience negotiating with Medicare and Medicaid when clients have obtained relief in pharmaceutical injury cases and works extensively with co-counsel in states throughout the country to obtain court approval for certain settlements involving minors, estates, or guardianships; Has more than one hundred hours of training and practicum in both Basic Mediation Training and Divorce Mediation.

Practice Areas: Pharmaceutical Injury Litigation, focusing on settlement effectuation matters involving the Firm's clients.

Denise K. Stewart

Position: Associate.

Admitted: Florida, 1982 (currently inactive); New Jersey, 1990; U.S. District Court for the District of New Jersey, 1990.

Education: Monmouth University (B.A., 1972); University of Miami School of Law (J.D., 1982).

Experience: Prior to joining the Firm at its inception in 1999, litigated personal injury and professional malpractice cases in Florida. Has been involved in state and federal complex mass tort and multidistrict litigation, including New Jersey litigation against Hoffmann-La Roche relating to gastrointestinal injuries stemming from use of the prescription acne drug Accutane; New Jersey litigation against Ortho-McNeil Pharmaceutical involving strokes, deep vein thromboses, and other thrombotic events related to use of the birth control patch Ortho Evra; and a nationwide settlement involving individuals who suffered strokes caused by use of over-the-counter products containing PPA.

Practice Areas: Pharmaceutical Product Liability Litigation.

David R. Tawil

Position: Associate.

Admitted: New Jersey, 2014.

Education: New York University (B.A. History, 2007); Tulane University (J.D., 2012).

Honors: Senior Notes and Comments Editor, Tulane Journal of International and Comparative

Law; Associate Justice, Tulane University Law School's Moot Court Board.



Author: Kiobel v. Royal Dutch Petroleum Co.: The Second Circuit Rejects Corporate Liability Under the Alien Tort Statute (19 Tul. J. Int'l & Comp. L. 709) and Implications of PLIVA, Inc. v. Mensing: The Reemergence of Federal Preemption (unpublished).

Experience: Law clerk to the Honorable Jessica R. Mayer, J.S.C., one of New Jersey's three Multicounty Litigation judges; certified trained mediator by the New Jersey Courts.

Member: John C. Lifland American Inn of Court.

Practice Areas: Drug and Medical Devices.



JA6723

EXHIBIT C

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

DECLARATION OF LEVIN SEDRAN & BERMAN IN SUPPORT OF CO-LEAD CLASS COUNSEL'S PETITION FOR AN AWARD OF ATTORNEY'S FEES AND REIMBURSEMENT OF COSTS AND EXPENSES

Arnold Levin declares as follows pursuant to 28 U.S.C. § 1746:

1. I am a Senior Partner of the law firm of Levin Sedran & Berman ("LSB"). I was appointed by the Court to serve on the Plaintiffs' Steering Committee ("PSC") and as Subclass Counsel for Subclass 1 class members. I submit this declaration in support of Co-Lead Class Counsel's Petition for an Award of Attorney's Fees and Reimbursement of Costs and Expenses in connection with and for services rendered and expenses incurred for the common benefit of

¹ On December 19, 2016, the law firm of Levin, Fishbein, Sedran & Berman changed its name to Levin Sedran & Berman.

the Settlement Class in the above-captioned multidistrict litigation ("Action") from the inception of the litigation through July 15, 2016, as well as for the payment of expenses incurred therewith. I have personal knowledge of the matters set forth in this declaration and, if called upon, I could and would testify competently thereto.

- 2. Our firm's role and services in the common benefit litigation against Defendants National Football League and NFL Properties LLC (together "the NFL Parties"), as directed by Plaintiffs' Co-Lead Counsel, include the following:
- a. At the inception of the litigation in February 2012, I met with Co-Lead Counsel Chris Seeger and other Plaintiffs' leadership counsel regarding the organization of the Action and jurisdictional issues. I participated in all PSC meetings and several Plaintiffs' Executive Committee meetings, as requested by Mr. Seeger.
- b. Our firm's attorneys conducted initial research on a number of topics including medical monitoring (50 state survey), tolling, preemption, and fraudulent concealment.

 LSB prepared a master class action complaint, medical monitoring complaint and tolling agreement, and we worked on preemption briefing.
- c. Beginning in June 2012, at the request of Co-Lead Counsel Chris Seeger, my former partner Michael D. Fishbein² met with medical experts regarding brain injuries, a medical monitoring program, and potential settlement.
- d. Beginning in or about March 2013, my partner Frederick S. Longer and I worked with Plaintiffs' Co-Lead Counsel to prepare for oral argument on the NFL Parties' preemption motion. I also analyzed the collective bargaining benefits of the NFL players.
- e. Beginning in April 2013, at the request of Mr. Seeger, I began working on a structure for a potential settlement with the NFL Parties. I reviewed and analyzed relevant

² Mr. Fishbein resigned from our firm as of June 30, 2016, due to health reasons.

medical literature and studies and analyzed medical monitoring programs based on my extensive experience as Co-Lead and Class Counsel in the *Diet Drugs* Litigation. I travelled numerous times to New York and Washington, D.C. with my partner Mr. Fishbein to participate in preliminary settlement meetings with Plaintiffs' Co-Lead Counsel and counsel for the NFL Parties. We also met with Co-Lead Counsel in Philadelphia to work on settlement issues and a draft Term Sheet, including class and subclass definitions, an injury grid, baseline testing protocols and a baseline assessment program, reduction factors, injury definitions and criteria, medical experts, actuarial calculations, settlement funding, fraud prevention mechanisms, settlement administrators, and lien administrators.

- f. Beginning in July 2013, Mr. Seeger invited me to participate in settlement negotiations with the NFL Parties as counsel for a proposed subclass ("Subclass 1") of retired players who were not diagnosed with injuries associated with concussive and sub-concussive head trauma but were at increased risk of developing a range of neuromuscular and neurocognitive diseases associated with mild traumatic brain injuries.
- g. Pursuant to Co-Lead Counsel's direction, my partner Sandra L. Duggan and I assisted with the negotiations of a Settlement Term Sheet. Ms. Duggan and I participated in numerous in-person negotiation sessions in New York with counsel for the NFL Parties, which were mediated by Ret. Judge Layn R. Phillips, and we worked virtually full-time, sometimes around the clock, on the settlement. We worked closely with Mr. Seeger and other attorneys at Seeger Weiss, including David Buchanan, TerriAnne Benedetto, Scott George, and Chris Van de Kieft. We also coordinated with Dianne Nast, the proposed Subclass Counsel for Subclass 2 class members. After the Term Sheet was signed by all parties at the end of August 2013, Ms. Duggan and I continued to work with Mr. Seeger and his firm virtually full-time to

draft a settlement agreement. We met with Co-Lead Counsel and counsel for the NFL Parties in New York many times and also participated in negotiation sessions over the telephone. We were involved in meetings with various proposed settlement administrators and class notice specialists.

- h. After the principal terms of the settlement were reached, LSB partners

 Arnold Levin, Sandra Duggan, and Fred Longer, along with additional attorneys from our firm,
 assisted Seeger Weiss with preparation of preliminary settlement approval and class certification
 papers, a new class complaint, a proposed short-form and long-form class notice, a notice plan, a
 list of Frequently Asked Questions, and a settlement website. We also conducted research on
 assumption of risk, statutes of limitation, prescription defenses, statutory employer defense,
 proximate causation, and subclassing issues.
- i. LSB assisted Mr. Seeger and his firm with extensive briefing in opposition to objections to the settlement, motions to intervene, and motions to remand.
- j. After the Court appointed Special Master Perry Golkin to assess certain financial aspects of the settlement, Ms. Duggan and I met with him over the phone and she met with him in New York at his office in December 2013, at Co-Lead Counsel's direction.
- k. Through the spring and early summer of 2014, Ms. Duggan and I worked with Mr. Seeger, Mr. Buchanan, and other attorneys from Seeger Weiss to renegotiate a number of settlement provisions, including an uncapped settlement fund, injury criteria, security, and proofs of claim. We worked on revised preliminary settlement approval and class certification papers, publication class notices, a media plan, a chart of settlement required tasks, and we also helped with briefing in response to settlement objections, motions to lift stays, motions to intervene, and motions for settlement discovery.

- 1. In July 2014, LSB assisted Co-Lead Counsel with opposing a Rule 23(f) appeal to the Third Circuit Court of Appeals. We also met with Co-Lead Counsel and Professor Sam Issacharoff in New York and Philadelphia to assist in preparations for oral argument in September 2014.
- m. After the Rule 23(f) appeal was unsuccessful, LSB helped Mr. Seeger and his firm prepare papers for final approval of the settlement, including declarations of Mr. Seeger as Plaintiffs' Co-Lead Counsel and Counsel for Subclass 1 and Subclass 2, and a declaration of Ret. Judge Layn Phillips. We also assisted Co-Lead Counsel with preparations for the Fairness Hearing in November 2014 and with additional briefing related to settlement objections and motions to extend the opt-out period. Following the Fairness Hearing, Ms. Duggan and I assisted Seeger Weiss with preparation of joint proposed Findings of Fact and Conclusions of Law and an Executive Summary of the settlement. We also helped with post-Hearing briefing in support of approval of the settlement and certification of the settlement class and subclasses.
- n. Following final approval of the settlement by the District Court in April 2015, LSB assisted Seeger Weiss with research, briefing and oral argument in opposition to appeals to the Third Circuit from objectors to the settlement.
- o. Following the Third Circuit's affirmance of the District Court's approval of the settlement, LSB provided comments on the brief in opposition to certain objectors' petitions for writs of certiorari.
- p. As an integral part of my representation of Subclass 1 members, I met with proposed Subclass 1 representative Retired NFL Football Player Corey J. Swinson. Sadly, Mr. Swinson passed away suddenly and unexpectedly on September 10, 2013. During the negotiations of settlement terms in the summer of 2013, Co-Lead Class Counsel Chris Seeger

and I conferred with Mr. Swinson concerning the terms of the proposed Settlement. Prior to his death, I met with Mr. Swinson.

- q. Following Mr. Swinson's death, Plaintiff Shawn Wooden became the proposed and eventually appointed Subclass 1 representative. I met with Mr. Wooden in my office in Philadelphia regarding his representation of Subclass 1 Class Members in the proposed class action. My partner Daniel Levin attended the meeting as well. I determined that Mr. Wooden had standing to assert the rights of Subclass 1 members and he was an adequate representative for the undiagnosed players who are at increased risk for developing a Qualifying Diagnosis during their lifetime.
- r. After the Court appointed me as Subclass Counsel for Subclass 1 members, from time to time my office received inquiries from Subclass 1 class members seeking information about the settlement. My partners Mr. Longer and Ms. Duggan fielded those questions. These were not clients of the firm and, for that reason, the services we provided should be considered for the common benefit.
- 3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of common benefit time spent by the attorneys and professional support staff of my firm who were involved in, and billed fifty or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates of such personnel in their final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended in preparing this application for attorney's fees and expenses has been excluded.

- 4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in other contingent matters and have been accepted by other federal courts in other class action cases prosecuted by my firm.
- 5. The total number of hours expended on the common benefit of this Action by my firm during the time period is 5021.25 hours. The total lodestar for my firm for those hours is \$6,031,806.25, consisting of \$6,002,331.25 for attorneys' time and \$29,475.00 for professional support staff time.
- 6. My firm's lodestar figures are based solely upon my firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.
- 7. As detailed in Exhibit 2 hereto, my firm is seeking reimbursement of a total of \$519,893.97 in common benefit expenses incurred in connection with the prosecution of this Action. These expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source material, and are an accurate record of the expenses incurred.
- 8. With respect to the standing of my firm to share in an award of fees, costs, and expenses, attached hereto as Exhibit 3 is a biography of my firm, including the attorneys in my firm who were principally involved in this Action.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 28, 2016 at Philadelphia, Pennsylvania.

Arnold Levin, Esquire

EXHIBIT 1

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

LEVIN SEDRAN & BERMAN

LODESTAR REPORT

Inception through July 15, 2016

NAME	HOURS	HOURLY RATE	AMOUNT
PARTNERS:			
Arnold Levin	1444.75	\$1350	\$1,950,412.50
Michael D. Fishbein	180.25	\$1250	\$225,312.50
Laurence S. Berman	20.50	\$1200	\$24,600.00
Fred S. Longer	694.75	\$1200	\$833,700.00
Sandra Duggan	2053.50	\$1200	\$2,464,200.00
Daniel C. Levin	402.00	\$975	\$391,950.00
Charles E. Schaffer	19.75	\$975	\$19,256.25
PARTNER TOTAL	4815.50		\$5,909,431.25
ASSOCIATES:			
Matthew Gaughan	38.00	\$850	\$32,300.00
Brian Fox	87.50	\$525	\$45,937.50
ASSOCIATES			
TOTAL	125.50		\$78,237.50
CONTRACT ATTORNEY TOTAL			
David P. McLafferty	17.25	\$850	\$14,662.50
CONTRACT	17.23	φου	\$14,002.30
ATTORNEY	17.25		\$14,662.50
PARALEGALS:			
Thomas Shrack	45.00	\$475	\$21,375.00
Marion Hutson	9.00	\$450	\$4,050.00
Monica Lord	9.00	\$450	\$4,050.00
PARALEGAL			
TOTAL			***
	63.00		\$29,475.00
TOTALS:	5021.25		\$6,031,806.25

EXHIBIT 2

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

LEVIN SEDRAN & BERMAN

COST AND EXPENSE REPORT

Inception through July 15, 2016

NUMBER	CATEGORY	AMOUNT
1	Assessments	\$425,000.00
2	Commercial Copies	\$520.45
3	Computerized Research	\$33,372.31
4	Court Reporters/Transcripts	\$0.00
5	Expert Services	\$0.00
6	Facsimile	\$236.00
7	Filing & Service Fees	\$700.00
8	In-House Copies	\$11,584.60
9	Long Distance Telephone	\$374.05
10	Postage/Express Delivery	\$364.09
11	Travel/Meals/Lodging	\$47,617.23
12	Miscellaneous - supplies	\$125.24
TOTAL EXPENSES		\$519,893.97

EXHIBIT 3

LEVIN SEDRAN & BERMAN

FIRM BIOGRAPHY

The law firm of Levin Sedran & Berman (formerly known as Levin, Fishbein, Sedran & Berman, and before that, Levin & Fishbein) was established on August 17, 1981. Earlier, the founding partners of Levin, Fishbein, Sedran & Berman, Messrs. Arnold Levin and Michael D. Fishbein, were with the law firm of Adler, Barish, Levin & Creskoff, a Philadelphia firm specializing in litigation. Arnold Levin was a senior partner in that firm and Michael D. Fishbein was an associate. Laurence S. Berman was also an associate in that firm.

The curricula vitae of the attorneys are as follows:

(a) ARNOLD LEVIN, a member of the firm, graduated from Temple University, B.S., in 1961, with Honors and Temple Law School, LLB, in 1964. He was Articles Editor of the Temple Law Quarterly. He served as a Captain in the United States Army (MPC). He is a member of the Philadelphia, Pennsylvania, American and International Bar Associations. He is a member of the Philadelphia Trial Lawyers Association, Pennsylvania Trial Lawyers Association and the Association of Trial Lawyers of America. He is admitted to the Supreme Court of Pennsylvania, United States District Court for the Eastern District of Pennsylvania, United States District Court for the Middle District of Pennsylvania, the Third, Fourth, Fifth, Sixth, Seventh, Tenth and Eleventh Circuit Courts of Appeals and the United States Supreme Court. He has appeared pro hac vice in various federal and state courts throughout the United States. He has lectured on class actions, environmental, antitrust and tort litigation for the Pennsylvania Bar Institute, the Philadelphia Trial Lawyers Association, the Pennsylvania Trial Lawyers Association, The Association of Trial Lawyers of America, The Belli Seminars, the Philadelphia Bar Association, American Bar Association, the New York Law Journal Press, and the ABA-ALI London Presentations.

Mr. Levin is a past Chairman of the Commercial Litigation Section of the Association of Trial Lawyers of America, and is co-chairman of the Antitrust Section of the Pennsylvania Trial Lawyers Association. He is a member of the Pennsylvania Trial Lawyers Consultation Committee, Class Action Section, a fellow of the Roscoe Pound Foundation and past Vice-Chairman of the Maritime Insurance Law Committee of the American Bar Association. He is also a fellow of the International Society of Barristers,

and chosen by his peers to be listed in Best Lawyers of America. He has been recognized as one of 500 leading lawyers in America by Lawdragon and The Legal 500 USA. U.S. News and World Report has designated Levin, Fishbein, Sedran & Berman as one of the top 22 national plaintiffs' firms in mass torts and complex litigation. In addition, he has been further recognized as one of the top 100 trial lawyers by The National Trial Lawyers Association. He was also named to the National Law Journal's Inaugural List of America's Elite Trial Lawyers. He also has an "av" rating in Martindale-Hubbell and is listed in Martindale-Hubbell's Register of Preeminent Lawyers.

Mr. Levin was on the Executive Committee as well as various other committees and Lead Trial Counsel in the case of *In re Asbestos School Litigation*, Master File No. 83-0268 (E.D. Pa.), which was certified as a nationwide class action on behalf of all school districts. Mr. Levin was also on the Plaintiffs' Steering Committee in *In re Copley Pharmaceutical*, *Inc.*, "Albuterol" Products Liability Litigation, MDL 1013 (D. Wyoming); *In re Norplant Contraceptive Products Liability Litigation*, MDL 1038 (E.D. Tex.); and *In re Telectronics Pacing Systems*, *Inc.*, Accufix Atrial "J" Lead Products Liability Litigation, MDL 1057 (S.D. Ohio).

Mr. Levin was appointed by the Honorable Sam J. Pointer as a member of the Plaintiffs' Steering Committee in the *Silicone Gel Breast Implants Products Liability Litigation*, Master File No. CV-92-P-10000-S, MDL 926 (N.D. Ala.). The Honorable Louis L. Bechtle appointed Mr. Levin as Co-Lead Counsel of the Plaintiffs' Legal Committee and Liaison Counsel in *In re Orthopedic Bone Screw Products Liability Litigation*, MDL 1014 (E.D. Pa.). Mr. Levin also served as Co-Chair of the Plaintiffs' Management Committee, Liaison Counsel, and Class Counsel in *In re Diet Drugs Litigation*, MDL 1203 (E.D. Pa.). He was also a member of a four lawyer Executive Committee in *In re Rezulin Products Liability Litigation*, MDL No. 1348 (S.D.N.Y.) and is a member of a seven person Steering Committee in *In re Propulsid Products Liability Litigation*, MDL No. 1355 (E.D. La.). He was Chair of the State Liaison Committee in *In re Phenylpropanolamine (PPA) Products Liability Litigation*, MDL 1407 (W.D. Wash.); and is a member of the Plaintiffs' Steering Committee and Plaintiffs' Negotiating Committee in *In re Vioxx Products Liability Litigation*, MDL No. 1657 (E.D. La.) and the Court approved Medical Monitoring Committee in *In re Human Tissue Products Liability Litigation*, MDL No. 1763 (D.N.J.).

He is currently Plaintiffs' Lead Counsel, Class Counsel and Co-Chair of the Fee Committee in *In re Chinese-Manufactured Drywall Product Liability Litigation*, MDL No. 2047 (E.D. La.). He was Plaintiffs' Liaison Counsel in *In re CertainTeed Corp. Roofing Shingles Products Liability Litigation*, MDL No. 1817 (E.D. Pa.). He is a member of the Plaintiffs' Steering Committee in *In re National Football League Players' Concussion Litigation*, MDL No. 2323 (E.D. Pa.) and was appointed as Subclass Counsel for Subclass 1 in the NFL Concussion Class Action Settlement. Mr. Levin is a member of the Plaintiffs' Steering Committee in *In re Pool Products Distribution Market Antitrust Litigation*, MDL 2328); *In re Testosterone Replacement Therapy Products Liability Litigation*, MDL 2545 (N.D. Ill.); *In re Zoloft (Sertraline Hydrochloride) Products Liability Litigation*, MDL 2342 (E.D. Pa.); and *In re Yasmin and Yaz Marketing, Sales Practices and Relevant Products Liability Litigation*, MDL 2100 (S.D. Ill.). He is a member of Plaintiffs' Executive Committee in *In re Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation*, MDL 2428 (D. Mass). Mr. Levin was appointed by the Honorable Carl J. Barbier to serve as Special Counsel to the Plaintiffs' Fee and Cost Committee in the BP Oil Spill Litigation, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, MDL 2179 (E.D. La.).

Mr. Levin was also a member of the Trial and Discovery Committees in the *Exxon Valdez Oil*Spill Litigation, No. 89-095 (D. Alaska) In addition, Mr. Levin was Lead Counsel in the prosecution of individual fishing permit holders, native corporations, native villages, native claims and business claims.

(b) MICHAEL D. FISHBEIN, a retired member of the firm as of June 30, 2016, is a graduate of Brown University (B.A., 1974). He graduated from Villanova University Law School with Honors, receiving a degree of Juris Doctor in 1977. Mr. Fishbein was a member of the Villanova Law Review and is a member of the Villanova University Law School Chapter of the Order of Coif. He is admitted to practice before the Pennsylvania Supreme Court, the United States District Court for the Eastern District of Pennsylvania, and the Third Circuit Court of Appeals. Mr. Fishbein was extensively involved in the prosecution of a variety of commercial class actions. He was Class Counsel in *In re Diet Drugs Litigation*, MDL 1203, and the principal architect of the seminal National Diet Drugs Settlement Agreement. He was also a member of the Plaintiffs' Steering Committee in *In re Phenylpropanolamine*

(PPA) Products Liability Litigation, MDL 1407 (W.D. Wash.).

of Miami School of Law in 1976. He was a law clerk to United States District Court Judge, C. Clyde Atkins, of the Southern District of Florida from 1976-1977. He is a member of the Florida, District of Columbia and Pennsylvania bars and is admitted to practice in various federal district and appellate courts. From 1977 to 1981, he was an associate at the Washington, D.C. firm of Howrey & Simon which specializes in antitrust and complex litigation. During that period he worked on the following antitrust class actions: *In re Uranium Antitrust Litigation*; *In re Fine Paper Antitrust Litigation*; *Bogosian v. Gulf Oil Corporation*; *FTC v. Exxon, et al.*; and *In re Petroleum Products Antitrust Litigation*.

In 1982, Mr. Sedran joined the firm and has continued to practice in the areas of environmental, securities, antitrust and other complex litigation. Mr. Sedran also has extensive trial experience. In the area of environmental law, Mr. Sedran was responsible for the first certified "Superfund" class action.

As a result of his work in an environmental case in Missouri, Mr. Sedran was nominated to receive the Missouri Bar Foundation's outstanding young trial lawyer's award, the Lon Hocker Award.

Mr. Sedran has also actively participated in the following actions: In re Dun & Bradstreet Credit Services Customer Litigation, Civil Action Nos. C-1-89-026, C-1-89-051, 89-2245, 89-3994, 89-408 (S.D. Ohio); Raymond F. Wehner, et al. v. Syntex Corporation and Syntex (U.S.A.) Inc., No. C-85-20383(SW) (N.D. Cal.); Harold A. Andre, et al. v. Syntex Agribusiness, Inc., et al., Cause No. 832-05432 (Cir. Ct. of St. Louis, Mo.); In re Petro-Lewis Securities Litigation, No. 84-C-326 (D. Colo.); In re North Atlantic Air Travel Antitrust Litigation, No. 84-1013 (D.D.C.); Jaroslawicz v. Engelhard Corp., No. 84-3641 (D. N.J.); Gentry v. C & D Oil Co., 102 F.R.D. 490 (W.D. Ark. 1984); In re EPIC Limited Partnership Securities Litigation, Nos. 85-5036, 85-5059 (E.D. Pa.); Rowther v. Merrill Lynch, et al., No. 85-Civ-3146 (S.D.N.Y.); In re Hops Antitrust Litigation, No. 84-4112 (E.D. Pa.); In re Rope Antitrust Litigation, No. 85-0218 (M.D. Pa.); In re Asbestos School Litigation, No. 83-0268 (E.D. Pa.); In re Catfish Antitrust Litigation, MDL 928 (Plaintiffs' Executive Committee); In re Carbon Dioxide Antitrust Litigation, MDL 940 (N.D. Miss.) (Plaintiffs' Executive Committee); In re Alcolac, Inc. Litigation, No. CV490-261 (Marshall, Mo.); In re Clozapine Antitrust Litigation,

MDL 874 (N.D. Ill.) (Co-Lead Counsel); In re Infant Formula Antitrust Litigation, MDL 878 (N.D. Fla.); Cumberland Farms, Inc. v. Browning-Ferris Industries, Inc., Civil Action No. 87-3713 (E.D. Pa.); In re Airlines Antitrust Litigation, MDL 861 (N.D. Ga.); Lazy Oil, Inc. et al. v. Witco Corporation, et al., C.A. No. 94-110E (W.D. Pa.) (Plaintiffs' Co-Lead Counsel); In re Nasdag Market-Makers Antitrust Litigation, MDL 1023 (S.D.N.Y.) (Co-Chair Discovery); and In re Travel Agency Commission Antitrust Litigation, Master File No. 4-95-107 (D. Minn.) (Co-Chair Discovery); Erie Forge and Steel, Inc. v. Cyprus Minerals Co., C.A. No. 94-0404 (W.D. Pa.) (Plaintiffs' Executive Committee); In re Commercial Explosives Antitrust Litigation, MDL 1093 (Plaintiffs' Co-Lead Counsel); In re Brand Name Prescription Drug Antitrust Litigation, MDL 997; In re High Fructose Corn Syrup Antitrust Litigation, MDL 1087; In re Carpet Antitrust Litigation, MDL 1075; In re Graphite Electrodes Antitrust Litigation, C.A. No 97-CV-4182 (E.D. Pa.) (Plaintiffs' Co-Lead Counsel); In re Flat Glass Antitrust Litigation, MDL 1200 (Discovery Co-Chair); In re Commercial Tissue Products Antitrust Litigation, MDL 1189; In re Thermal Fax Antitrust Litigation, C.A. No. 96-C-0959 (E.D. Wisc.); In re Lysine Indirect Purchaser Antitrust Litigation, (D. Minn.); In re Citric Acid Indirect Purchaser Antitrust Litigation, C.A. No. 96-CV-009729 (Cir. Ct. Wisc.). Most recently, Mr. Sedran serves as one of the court-appointed Co-Lead Counsel in *In re Air Cargo Shipping Services* Antitrust Litigation, MDL No. 1775 (E.D. N.Y.).

In *Lazy Oil Co. v. Witco Corp., et. al., supra*, the District Court made the following comments concerning the work of Co-Lead Counsel:

[t]he Court notes that the class was represented by very competent attorneys of national repute as specialists in the area of complex litigation. As such Class Counsel brought considerable resources to the Plaintiffs' cause. The Court has had the opportunity to observe Class counsel first-hand during the course of this litigation and finds that these attorneys provided excellent representation to the Class. The Court specifically notes that, at every phase of this litigation, Class Counsel demonstrated professionalism, preparedness and diligence in pursuing their cause.

(d) **LAURENCE S. BERMAN**, a member of the firm, was born in Philadelphia, Pennsylvania on January 17, 1953. He was admitted to the bar in 1977. He is admitted to practice before the U.S. Courts of Appeals for the Third, Fourth and Seventh Circuits; the U.S. District Court, Eastern District of Pennsylvania; and the Bar of Pennsylvania. He is a graduate of Temple University (B.B.A., magna cum laude, 1974, J.D. 1977). He is a member of the Beta Gamma Sigma Honor Society. Mr. Berman was the law clerk to the Honorable Charles R. Weiner, U.S. District Court for the Eastern District of Pennsylvania 1978-1980. Member: Philadelphia, Pennsylvania and American Bar Associations. In 1982, Mr. Berman joined the law firm of Levin & Fishbein as an associate and became a partner in 1985 when the firm name was changed to Levin, Fishbein, Sedran & Berman.

Mr. Berman has had extensive experience in litigating and managing complex litigation. In the early 1980's he became a member of the discovery, law and trial committees of *In re: Asbestos School Litigation*, Master File No. 83-0268 (E.D. Pa.). As a member of those committees, he drafted discovery and legal briefs that lead to the successful resolution of the case on behalf of a nationwide class of schools seeking recovery of damages for the costs and expenses they were required to expend to assess the presence of asbestos in school buildings and to remediate under newly enacted rules and regulations of the Environmental Protection Agency, promulgated in the 1970's. In connection with that litigation, he was one of the architects of approaching class certification issues for a nationwide class by the use of a "50" state analysis of the law, in order to demonstrate the similarity of laws and therefore the manageability of a nationwide class action. The "50" state approach has been followed in other cases.

During the early stages of his career, he litigated numerous environmental class/mass tort cases to successful conclusions. He successfully litigated a lead contamination case for the residents of a community in the Port Richmond area of Philadelphia, where he drafted the legal briefs and presented the oral argument to obtain class certification of a property damage and medical monitoring class against NL Industries and Anzon. That litigation produced a multi-million-dollar recovery for the residents in the class area. *Ursula Stiglich Wagner, et al. v. Anzon, Inc., et al.*, No. 4420, June Term, 1987 (C.C.P. Phila. Cty.)

Similarly, he represented homeowners located near Ashland, Kentucky for environmental pollution

damage. This case involved representing approximately 700 individual clients for personal injury and medical monitoring relief that also resulted in a multi-million-dollar recovery for his clients.

Beginning in the 1990's Mr. Berman began his representation of victims of the Three Mile Island accident. The firm represented approximately 2,000 plaintiffs in that matter, and Mr. Berman was responsible for the legal briefing and experts in the case, along with addressing *Daubert* issues. The presiding Court (Middle District of Pennsylvania) determined to conduct extensive *Daubert* hearings in Three Mile Island, resulting in approximately ten full weeks of in court live hearings, and thousands of pages of legal briefing. Ultimately the trial court determined that several of the expert witnesses offered by the plaintiffs did not meet the *Daubert* requirements, and an appeal was taken to the Third Circuit Court of Appeals, where Mr. Berman both briefed and argued the issues. The Third Circuit affirmed parts of the decision and remanded for further proceedings by the trial court. His representation of clients in the Three Mile Island litigation spanned well over a decade.

In 1989, Mr. Berman represented approximately 1,000 plaintiffs who suffered damages as a result of the Exxon Valdez oil spill. In that role, he managed the claims of each of his firm's clients and worked in the development of their expert evidence and claim materials. As a subset of that litigation, he handled the claims of the Native Opt-Out Settlement Class. This representation also spanned well over a decade.

Mr. Berman began his role in litigating *In re Diet Drugs*, MDL 1203 (E.D. Pa.) in 1997 at the outset of that litigation. The *Diet Drugs* case is still active to this date. Mr. Berman's firm was appointed as Co-Lead Counsel, Co-Class Counsel and Liaison Counsel. The massive size of the *Diet Drugs* case required the commitment of three of the named partners to the case, Arnold Levin, Michael Fishbein and Mr. Berman, as well as a substantial commitment by partner Fred Longer. While Messrs. Levin and Fishbein were formally named as Co-Class counsel to the case, Mr. Berman had a *de facto* role as Co-Class Counsel and Co-Lead counsel for the case. Mr. Berman briefed many legal issues, argued issues in court, participated in discovery, appeared frequently before the Special Discovery Master, helped negotiate the settlement(s) and helped in the management of the oversight of both the AHP Settlement Trust that was created to oversee the Settlement and the Seventh Amendment Fund Administrator that was created to oversee the Seventh Amendment aspect of the Settlement. He also managed the claims of the

firm's individual clients.

Although the *Diet Drugs* case remains active today, and still occupies some of Mr. Berman's time, over the recent years he became active in various other pharmaceutical cases. In particular, beginning in about 2010, he became active in *In re Yaz/Yasmin/Ocella*, MDL 2100 (S. D. Ill.) where he was appointed as a member of the discovery and legal briefing committees. Mr. Berman worked with his partner Michael Weinkowitz as Co-Liaison Counsel in the parallel state court litigation pending in the Court of Common Pleas of Philadelphia.

As the *Yaz* case began to wind down, Mr. Berman became active in litigation Tylenol cases where he was appointed and remains currently Plaintiffs' Co-Lead and Liaison Counsel. *In re Tylenol*, MDL 2436, (E.D. Pa.). As Plaintiffs' Co-Lead and Liaison Counsel, Mr. Berman has appeared in Court for the Plaintiffs at virtually all of the monthly status conferences, drafted numerous briefs, engaged in discovery, drafted numerous case management orders that were entered by the Court, argued motions and otherwise managed the case on behalf of the Plaintiffs.

Mr. Berman is also a *de facto* member of the executive committee of *In re Granuflo*, MDL MDL2428 (D. Mass.). Mr. Berman's partner Arnold Levin was formally appointed to that case's Executive Committee for the Plaintiffs and Mr. Berman was appointed as a Co-Chair of the law and briefing committee. He has acted as a *de facto* member of the Executive Committee for the firm. In his role on the Law and Briefing Committee, he drafted numerous briefs for the case, including *Daubert* briefs, drafted various case management orders that were entered by the Court, and assisted in the negotiation of the global settlement including the drafting of the settlement documents and the allocation plan.

In *In re Fosamax*, MDL 2243 (D.N.J.), Mr. Berman spearheaded the plaintiffs' position relating to privilege log issues as well as preemption and *in limine* issues raised in the bellwether case. Most recently, Mr. Berman was appointed to the Plaintiffs' Steering Committee by the Honorable Freda L. Wolfson in *In re Johnson & Johnson Talcum Powder Products*, MDL 2738 (D. N.J.).

Mr. Berman has lectured about mass tort matters. He lectured about the Tylenol case at several seminars and is a member of the American Association of Justice (AAJ) litigation group for the case. He is also a member of various other AAJ litigation groups involving pharmaceutical products. Mr. Berman

has been a frequent speaker for the Pennsylvania Bar Institute, Mealy's Publications and Harris Martin. His lectures have been accredited for providing CLE credit to the attendees. Mr. Berman has an A.V. Peer Review rating by Martindale-Hubbell, and is an AAJ National College of Advocacy Advocate. He is also a member of The National Trial Lawyers, as well as a member of the American, Pennsylvania and Philadelphia Bar Associations and has been recognized as a Super Lawyer. His published works include "Class Actions in State and Federal Courts," Pennsylvania Bar Institute (Continuing Legal Education), November, 1997; "New Pennsylvania Rule of Civil Procedure 207.1," Pennsylvania Bar Institute (Continuing Legal Education), November, 2001, and membership on the Board of Editors, "Fen-Phen Litigation Strategist," Leader Publications, (1998).

FREDERICK S. LONGER, specializes in representing individuals who have been harmed (e) by dangerous drugs, medical devices, other defective products and antitrust violations. Mr. Longer has extensive experience in prosecuting individual, complex and class action litigations in both state and federal courts across the country. Mr. Longer has been involved in the resolution of several of the largest settlements involving personal injuries including the \$6.75 billion settlement involving Diet Drugs and the \$4.85 billion settlement involving Vioxx. Mr. Longer was a member of the negotiating counsel responsible for the settlements in the Chinese Drywall litigation involving various suppliers and manufacturers of Chinese Drywall valued in excess of \$1 billion. Mr. Longer has a wealth of experience in mass torts and has frequently been the chairman or member of the Law and Briefing Committee in numerous multi-district litigations in In re Propulsid Products Liability Litigation, MDL No. 1355 (E.D. La.); In re Rezulin Products Liability Litigation, MDL No. 1348 (S.D.N.Y.); In re Vioxx Products Liability Litigation, MDL 1657 (E.D. La.); In re Orthopedic Bone Screw Products Liability Litigation, MDL 1014 (E.D. Pa.); and In re Diet Drug Litigation, MDL 1203 (E.D. Pa.). He is a court-appointed member of the Plaintiffs' Steering Committee in In re Mirena Products Liability Litigation, MDL 2434 (S.D.N.Y.) and In re Xarelto Products Liability Litigation, MDL No. 2592 (E.D. La.). Mr. Longer also assisted Co-Lead Counsel and Subclass Counsel with negotiating the class settlement in *In re National Football* League Players' Concussion Litigation, MDL No. 2323 (E.D. Pa.).

Mr. Longer has substantial trial experience and is one of the few counsel in the country to have a

client's claim involving Baycol tried to verdict in Philadelphia County Court of Common Pleas.

Mr. Longer, originally from Philadelphia, Pennsylvania, completed his undergraduate work at Carnegie Mellon University. He then attended the University Pittsburgh School of Law and was a Notes and Comments Editor for the University of Pittsburgh Law Review. Mr. Longer practiced for 3 years in Allegheny County with the law firm of Berger, Kapatan, Malakoff & Myers on complex litigation and civil rights matters, including *Kelly v. County of Allegheny*, No. 6D 84-17962 (C.P. Allegheny County, PA). Thereafter, Mr. Longer joined the firm and is now a member in the firm.

Mr. Longer is a frequent lecturer and has presented numerous seminars on various legal topics for professional groups. Some of Mr. Longer's speaking engagements include: *Plaintiff Only Consumer Warranty Class Action Litigation Seminar*, American Association for Justice Education and the National Association of Consumer Advocate (June 3-4, 2014); "No Injury" and "Overbroad" Class Actions After Comcast, Glazer and Butler: Implications for Certification-Navigating Complex Issues of Overbreadth and Damages in Consumer Product Cases, Strafford Webinar (April 1, 2014); Service of Process in China, ABA Annual Conference (April 18-20, 2012); Chinese Drywall Litigation Conference, Harris Martin (October 20-21, 2011); Current Issues in Multi-district Litigation Practice, Harris Martin (September 26, 2011); FDA Preemption: Is this the end?, Mass Torts Made Perfect (May 2008). He has authored several articles including, The Federal Judiciary's Super Magnet, TRIAL (July 2009). He also contributed to Herbert J. Stern & Stephen A. Saltzburg, TRYING CASES TO WIN: ANATOMY OF A TRIAL (Aspen 1999).

Mr. Longer is a member of the American Bar Association, American Association for Justice, Pennsylvania and Philadelphia Association for Justice, the Pennsylvania Bar Association and the Philadelphia Bar Association. He is an active member of the Historical Society for the Eastern District of Pennsylvania. He is admitted to practice before the Supreme Court of Pennsylvania and the Supreme Court of New Jersey, the United States Supreme Court; the United States Courts of Appeals for the Second, Third, Fourth, Fifth, Seventh and Ninth Circuits, and the United States District Courts for the Western and Eastern Districts of Pennsylvania, United States District Court Northern District of New York; United States District Court of

New Jersey; United States District Court for District of Arizona; and the United States District Court District of Nebraska.

Mr. Longer has received Martindale-Hubbell's highest rating (AV) as a pre-eminent lawyer for his legal ability and ethical standards. He has also been recognized by his peers as a Super Lawyer since 2008.

(f) SANDRA L. DUGGAN, is Of-Counsel to the firm. She received her J.D. degree in 1985 from Columbia Law School and a B.A. from Washington University in St. Louis, where she was Phi Beta Kappa. Since 1989, Ms. Duggan has focused her practice on class action and multidistrict litigation. She was a named partner in the firm of Kronfeld Newberg & Duggan prior to joining Levin Sedran & Berman. She has served as a member of the Plaintiffs' Executive Committee in the national asbestos property damage class action, Prince George Center, Inc. v. U.S. Gypsum, et al. (C.C.P. Phila.), and she is counsel for class plaintiffs in the Title IX discrimination suit, Cohen v. Brown University, et al., (D.R.I.). Ms. Duggan's former firm was Co-Lead Counsel in *In re School Asbestos Litigation*, (E.D. Pa.) and she participated in the Asbestos Claimants Committees in Celotex and National Gypsum Chapter 11 bankruptcies. She has also worked on the In re EXXON VALDEZ litigation and other securities fraud, shareholder and property damage class actions in federal and state courts. Ms. Duggan has worked with Levin Sedran & Berman extensively in *In re Orthopedic Bone Screw Products Liability Litigation*, MDL 1014 (E.D. Pa.); In re Diet Drugs Litigation, MDL 1203 (E.D. Pa.); In re Chinese-Manufactured Drywall Products Liability Litigation, MDL 2047 (E.D. La.); In re VIOXX Products Liability Litigation, MDL 1657 (E.D. La.), and she assisted Co-Lead Counsel and Subclass Counsel with negotiating the class settlement in In re National Football League Players' Concussion Litigation, MDL No. 2323 (E.D. Pa.). In July 2015, Ms. Duggan and Mr. Levin were appointed by the Honorable Carl J. Barbier to serve as Special Counsel to the Plaintiffs' Fee and Cost Committee in the BP Oil Spill Litigation, In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010, MDL 2179 (E.D. La.).

Ms. Duggan served as a class action expert in *In re "Non-Filing" Insurance Fee Litigation*, MDL 1130 (M.D. Ala.). She was a contributing author and editor of the Third Edition of Herbert

Newberg, Newberg On Class Actions, (3d ed. 1992) and she earned a Public Justice Achievement Award in July, 1999 from Public Justice for her work on the Brown University Title IX Litigation.

DANIEL C. LEVIN, a member of the firm, was born in Philadelphia, Pennsylvania. He (g) received his undergraduate degree from the University of Pittsburgh (B.A. 1994) and his law degree from Oklahoma City University (J.D. 1997). He is a member of Phi Delta Phi. He serves on the Board of Directors for the Philadelphia Trial Lawyers Association. He is also member of the Pennsylvania Bar Association; Pennsylvania Trial Lawyers Association, and the Association of Trial Attorneys of America. He is admitted to practice before the Supreme Court of Pennsylvania; the United States District Court for The Eastern District of Pennsylvania, and the United States Court of Appeals for the Second and Third Circuits. Mr. Levin has been part of the litigation team in *In re Orthopedic Bone Screw Products* Liability Litigation, MDL 1014 (E.D. Pa.); In re Diet Drugs Litigation, MDL 1203 (E.D. Pa.); Galanti v. The Goodyear Tire and Rubber Co., Civil Action No: 03-209; Muscara v. Nationwide, October Term 2000, Civil Action No. 001557, Philadelphia County; and Wong v. First Union, May Term 2003, Civil Action No. 001173, Philadelphia County, Harry Delandro, et al. v. County of Allegheny, et al., Civil Action No. 2:06-CV-927; Nakisha Boone, et al v. City of Philadelphia, et al, Civil Action No. 05-CV-1851; Mary Gwiazdowski v. County of Chester, No. 08-4463 (E.D.Pa.); Helmer, et al. v. the Goodyear Tire & Rubber Co., D. Co. Civil Action No. 1:12-00685-RBJ; Cobb v. BSH Home Appliance Corporation, et al, C.D. Cal. Case No. SACV10-711 DOC (ANx) and In Re Human Tissue Products Liability Litigation, MDL 1763 (D.N.J.).

Mr. Levin was lead counsel in *Joseph Meneghin v. Exxon Mobil Corporation, et al.*, Superior Court of New Jersey, Docket No. OCN-L-002696-07; *Johnson, et al. v. Walsh, et al*, PCCP April Term, 2008, No. 2012; *Kowa, et al. v. The Auto Club Group*, N.D.Ill. Case No. 1:11-cv-07476. Mr. Levin is currently lead counsel in *Ortiz v. Complete Healthcare Resources, Inc., et al*, Montgomery CCP No. 12-12609; *Gordon v. Maxim Healthcare Services, Inc.*, E.D. Pa. Civil Action No. 2:13-cv-07175 and *Shafir v. Continuum Health Partners, Inc.*

Daniel Levin is recognized by his peers as a Super Lawyer.

(h) **CHARLES E. SCHAFFER**, a member of the firm, born in Philadelphia, Pennsylvania, is a graduate of Villanova University, (B.S., *Magna Cum Laude*, 1989) and Widener University School of Law (J.D. 1995) and Temple University School of Law (LL.M. in Trial Advocacy, 1998). He is admitted to practice before the Supreme Court of Pennsylvania, the Supreme Court of New Jersey, the United States District Court for the Eastern District of Pennsylvania, the United States District Court for the Western District of Pennsylvania and the Third Circuit Court of Appeals. He is also a member of the American Bar Association, Association of Trial Attorneys of America, Pennsylvania Association for Justice, Philadelphia Trial Lawyers Association, and the National Trial Lawyers Association.

Mr. Schaffer has participated in, *inter alia*, the following actions: *Davis v. SOH Distribution* Company, Inc., Case No. 09-CV-237 (M.D. Pa.) (Plaintiffs' Co-Lead Counsel); In re CertainTeed Corporation Roofing Shingles Products Liability Litigation, MDL No. 1817 (E.D. Pa.) (Plaintiffs' Discovery and Settlement Committees); Gwaizdowski v. County of Chester, Civil Action No. 08-CV-4463 (E.D. Pa. 2012); Meneghin, v. The Exxon Mobile Corporation, et al., Civil Action No. OCN-002697-07 (Superior Court, Ocean County, NJ 2012) (Plaintiffs' Co-lead Counsel); Gulbankian et. al. v. MW Manufacturers, Inc., Case No. 1:10-cv-10392-RWZ (D.C. Mass.) (Plaintiffs' Discovery and Settlement Committees); Eliason, et al. v. Gentek Building Products, Inc., et al., Case No. 1:10-cv-2093 (N.D. Ohio) (Plaintiffs' Executive Committee); Smith, et al. v. Volkswagon Group of America, *Inc.*, Case No. 3:13-cv-00370-SMY-PMF (S.D. Ill.) (Plaintiffs' Discovery and Settlement Committees); Melillo, et al. v. Building Products of Canada Corp., Civil Action No. 1:12-CV-00016-JGM (D. Vt. Dec. 2012); Vought, et al., v. Bank of America, et al., Civil Action No. 10-CV-2052 (C.D. Ill. 2013) (Plaintiffs' Discovery and Settlement Committees); In re Navistar Diesel Engine Products Liability Litigation, MDL No. 2223 (N.D. Ill.) (Plaintiffs' Steering Committee); United Desert Charities, et al. v. Sloan Valve, et al., Case No. 12-cv-06878 (C.D. Ca.) (Plaintiffs' Executive Committee); Kowa, et. el. v. The Auto Club Group AKA AAA Chicago, Case No. 1:11-cv-07476 (N.D. Ill.); In re Chinese-Manufactured Drywall Product Liability Litigation, MDL 2047 (E.D. La.); In re Vioxx Products Liability Litigation, MDL 1657 (E.D. La.); In re Orthopedic Bone Screw Products Liability Litigation, MDL 1014 (E.D. Pa.); In re Diet Drugs Litigation, MDL 1203 (E.D. Pa.); In re: CertainTeed Fiber

Cement Siding Litigation, MDL 2270 (E.D. Pa. 2014) (Plaintiffs' Discovery and Settlement Committees) and *In re JP Mortgage Modification Litigation*, MDL 2290 (D. Mass.) (Plaintiffs' Co-Lead Counsel).

Currently, Mr. Schaffer is serving as lead counsel in *In re IKO Roofing Products Liability Litigation*, MDL 2104 (C.D. Ill.), a member of Plaintiffs' Steering Committee in *In re Pella Corporation Architect And Designer Series Windows Marketing Sales Practices and Product Liability Litigation*, MDL 2514 (D.S.C.); a member of the Plaintiffs' Executive Committee in *In re Azek Decking Sales Practices Litigation*, Civil Action No. 12-6627 (KM)(MCA)(D.NJ.), a member of the Plaintiffs' Executive Committee in *In re Citimortgage*, *Inc. Home Affordable Modification ("HAMP")*, MDL 2274 (C.D. Cal.); a member of the Plaintiffs' Executive Committee in *In re Carrier IQ Consumer Privacy Litigation*, MDL 2330 (N.D. Cal.); a member of the Plaintiffs' Executive Committee *In re Dial Complete Marketing and Sales Practices Litigation*; MDL 2263 (D.N.H.); a member of Plaintiffs' Executive Committee in *In re Emerson Electric Co. Wet/Dry Vac Marketing and Sales Litigation*, MDL 2382 (E.D. Miss.); a member of the Plaintiffs' Executive Committee *In re Colgate Palmolive Soft Soap Antibacterial Hand Soap Marketing and Sales Practice Litigation*, (D.N.H.); a member of the Plaintiffs' Executive Committee *In re HardiePlank Fiber Cement Siding* Litigation, MDL 2359 (D. Minn.) and is actively participating in a number of other class actions and mass tort actions across the United States in leadership positions.

In recognition of his accomplishments, Mr. Schaffer has achieved and maintained an AV Martindale-Hubbell rating. Mr. Schaffer speaks nationally on a multitude of topics relating to class actions and complex litigation.

(i) AUSTIN B. COHEN, a member of the firm, is a graduate of the University of Pennsylvania (B.A., 1990) and a graduate of the University of Pittsburgh School of Law (J.D., cum laude, 1996) where he served on the Journal of Law and Commerce as an assistant and executive editor. He has authored an article titled "Why Subsequent Remedial Modifications Should Be Inadmissible in Pennsylvania Products Liability Actions," which was published in the Pennsylvania Bar Association Quarterly. He is a member of the Pennsylvania and New Jersey bars, and is a member of the Pennsylvania and American Bar Associations.

- (j) MICHAEL M. WEINKOWITZ, a member of the firm, born Wilmington, Delaware, June 11, 1969; admitted to bar 1995, Pennsylvania and New Jersey, U.S. District Courts, Eastern District of Pennsylvania, District of New Jersey; U.S. Court of Appeals, Third Circuit. Education: West Virginia University (B.A., magna cum laude, 1991); Temple University (J.D., cum laude, 1995); Member, Temple International & Comparative Law Journal, 1994-95; American Jurisprudence Award for Legal Writing.
- (k) MATTHEW C. GAUGHAN, born in Boston, Massachusetts, is a graduate of the University of Massachusetts at Amherst, (B.B.A., 2000) and Villanova University School of Law (J.D., *Cum Laude*, 2003). He is admitted to practice in the States of New Jersey, New York and Pennsylvania. He is also admitted to practice before the United States District Court for the Eastern District of Pennsylvania and the United States District Court for the District of New Jersey. Mr. Gaughan has extensive involvement in products liability and commercial litigation cases.
- (1) **Keith J. Verrier**, is a graduate of Temple University School of Law (J.D., magna cum laude, 2000), where he was a member of the Law Review, and the University of Rhode Island (B.S., 1992). After law school, he was a law clerk for the Honorable Herbert J. Hutton in the United States District Court for the Eastern District of Pennsylvania. Mr. Verrier has experience litigating a wide range of commercial disputes with an emphasis on litigating and counseling clients on antitrust matters. He currently spends the majority of his time litigating antitrust class actions, predominantly those seeking overcharge damages on behalf of direct purchasers of products under both Section 1 and Section 2 of the Sherman Act. He is admitted to practice in the Commonwealth of Pennsylvania and the State of New Jersey as well as in the United States Court of Appeals for the Third Circuit, the United States District Court for the Eastern District of Pennsylvania and the United States District Court for the District of New Jersey. He is a member of the American Bar Association.
- (m) **LUKE T. PEPPER**, is a graduate of King's College (B.A. 1997) and the Temple University School of Law (J.D. 2000). While in law school, Mr. Pepper served as an intern for United States Magistrate Judge Peter Scuderi. He is admitted to the Pennsylvania Supreme Court, and the U.S. District Court for the Eastern District of Pennsylvania, U.S. Court of Appeals, Third Circuit, and United States Court of Appeals for the Armed Forces. He is a member of the Pennsylvania and American Association

of Justice. He served as claimant and attorney liaison for Class Counsel MDL 1203 *In re Diet Drugs*, (E.D. Pa.). His responsibilities included assisting claimants with the adjudication of their claims and resolution of settlement issues. In addition, Mr. Pepper is part of the litigation teams *In re Pradaxa* (Dabigatran Etexilate) Products Liability Litigation, MDL 2385 (S.D. Ill.), *In re: Yasmin and YAZ* (Drospirenone) Marketing, Sales Practices and Products Liability Litigation, MDL 2100 (S.D. Ill.); Municipal Derivatives MDL 1950 (S.D.N.Y.); Tylenol (Acetaminophen) Marketing, Sales Practices and Products Liability Litigation MDL 2436 (E.D. Pa.); Pool Products Distribution Market Antitrust Litigation, MDL 2328 (E.D. La.).

(n) **NICOLA F. SERIANNI**, is a graduate of The Johns Hopkins University (B.A. International Relations, 2000) and Widener University School of Law (J.D., 2006). While in law school, Ms. Serianni served as an intern for Pennsylvania Superior Court Judge Susan Peikes Gantman, and upon graduation continued to work in the Superior Court of Pennsylvania for Judges Richard B. Klein (Ret.) and Anne E. Lazarus. Ms. Serianni is admitted to practice in the Commonwealth of Pennsylvania, the State of New Jersey as well as in the United States District Court for the Eastern District of Pennsylvania. Ms. Serianni works extensively on products liability and class action litigation cases.

SUCCESSFULLY LITIGATED CLASS CASES

Levin Sedran & Berman's extensive class action practice includes many areas of law, including: Securities, ERISA, Antitrust, Environmental and Consumer Protection. The firm also maintains a practice in personal injury, products liability, and admiralty cases.

The firm has successfully litigated the following class action cases: *James J. and Linda J. Holmes*, et al. v. Penn Security Bank and Trust Co., et al., U.S.D.C., Middle District of Pennsylvania Civil Action No. 80-0747; *In re Glassine & Greaseproof Antitrust Litigation*, MDL 475, U.S.D.C., Eastern District of Pennsylvania; *In re First Pennsylvania Securities Litigation*, Master File No. 80-1643, U.S.D.C., Eastern District of Pennsylvania; *In re Caesars World Shareholder Litigation*, Master File No. MDL 496 (J.P. MDL); *In re Standard Screws Antitrust Litigation*, Master File No. MDL 443, U.S.D.C., Eastern District of Pennsylvania; *In re Electric Weld Steel Tubing Antitrust Litigation - II*,

Master File No. 83-0163, U.S.D.C., Eastern District of Pennsylvania; Leroy G. Meshel, et al. v. Nutri-Systems, Inc., et al., U.S.D.C., Eastern District of Pennsylvania, Civil Action No. 83-1440; In re Corrugated Container Antitrust Litigation, U.S.D.C., Southern District of Texas, Houston Division, MDL 310; In re Three Mile Island Litigation, U.S.D.C., Middle District of Pennsylvania, Civil Action No. 79-0432; Township of Susquehanna, et al. v. GPU, et al., U.S.D.C., Middle District of Pennsylvania, Civil Action No. 81-0437 (a Three Mile Island case); Donald A. Stibitz, et al. v. General Public Utilities Corporation, et al., No. 654 S 1985 (C.P. Dauphin County, Pa.) (a Three Mile Island case); Raymond F. Wehner, et al. v. Syntex Corporation and Syntex (U.S.A.) Inc., No. C-85-20383(SW) (N.D. Cal.) (first Superfund Class Action ever certified); In re Dun & Bradstreet Credit Services Customer Litigation, U.S.D.C., Southern District of Ohio, Civil Action Nos. C-1-89-026, 89-051, 89-2245, 89-3994, 89-408; Malcolm Weiss v. York Hospital, et al., U.S.D.C., Middle District of Pennsylvania, Civil Action No. 80-0134; In re Ramada Inns Securities Litigation, U.S.D.C., District of Delaware, Master File No. 81-456; In re Playboy Securities Litigation, Court of Chancery, State of Delaware, New Castle County, Civil Action No. 6806 and 6872; In re Oak Industries Securities Litigation, U.S.D.C., Southern District of California, Master File No. 83-0537-G(M); Dixie Brewing Co., Inc., et al. v. John Barth, et al., U.S.D.C., Eastern District of Pennsylvania, Civil Action No. 84-4112; In re Warner Communications Securities Litigation, U.S.D.C., Southern District of New York, Civil Action No. 82-CV-8288; In re Baldwin United Corporation Litigation, U.S.D.C., Southern District of New York, MDL No. 581; Zucker Associates, Inc., et al. v. William C. Tallman, et al. and Public Service Company of New Hampshire, U.S.D.C., District of New Hampshire, Civil Action No. C86-52-D; In re Shopping Carts Antitrust Litigation, MDL 451, Southern District of New York; Charal v. Andes, et al., C.A. No. 77-1725; Hubner v. Andes, et al., C.A. No. 78-1610 U.S.D.C., Eastern District of Pennsylvania; In re Petro-Lewis Securities Litigation, 84-C-326, U.S.D.C., District of Colorado; Gentry v. C & D Oil Co., 102 F.R.D. 490 (W.D. Ark. 1984); In re Hops Antitrust Litigation, C.A. No. 84-4112, U.S.D.C., Eastern District of Pennsylvania; In re North Atlantic Air Travel Antitrust Litigation, No. 84-1013, U.S.D.C., District of Columbia; Continental/Midlantic Securities Litigation, No. 86-6872, U.S.D.C., Eastern District of Pennsylvania; In re Fiddler's Woods

Bondholders Litigation, Civil Action No. 83-2340 (E.D. Pa.) (Newcomer, J.); Fisher Brothers v. Cambridge-Lee Industries, Inc., et al., Civil Action No. 82-4941, U.S.D.C., Eastern District of Pennsylvania; Silver Diversified Ventures Limited Money Purchase Pension Plan v. Barrow, et al., C.A. No. B-86-1520-CA (E.D. Tex.) (Gulf States Utilities Securities Litigation); In re First Jersey Securities Litigation, C.A. No. 85-6059 (E.D. Pa.); In re Crocker Shareholder Litigation, Cons. C.A. No. 7405, Court of Chancery, State of Delaware, New Castle County; Mario Zacharjasz, et al. v. The Lomas and Nettleton Co., Civil Action No. 87-4303, U.S.D.C., Eastern District of Pennsylvania; In re People Express Securities Litigation, Civil Action No. 86-2497, U.S.D.C., District of New Jersey; In re Duquesne Light Shareholder Litigation, Master File No. 86-1046 U.S.D.C., Western District of Pennsylvania (Ziegler, J.); In re Western Union Securities Litigation, Master File No. 84-5092 (JFG), U.S.D.C., District of New Jersey; In re TSO Financial Litigation, Civil Action No. 87-7903, U.S.D.C., Eastern District of Pennsylvania; Kallus v. General Host, Civil Action No. B-87-160, U.S.D.C., District of Connecticut; Staub, et al. v. Outdoor World Corp., C.P. Lancaster County, No. 2872-1984; Jaroslawicz, et al. v. Englehard Corp., U.S.D.C., District of New Jersey, Civil Action No. 84-3641F; In re Boardwalk Marketplace Securities Litigation, U.S.D.C., District of Connecticut, MDL 712 (WWE); In re Goldome Securities Litigation, U.S.D.C., Southern District of New York, Civil Action No. 88-Civ-4765; In re Ashland Oil Spill Litigation, U.S.D.C., Western District of Pennsylvania, Master File No. M-14670; Rosenfeld, et al. v. Collins & Aikman Corp., U.S.D.C., Eastern District of Pennsylvania, Civil Action No. 87-2529; Gross, et al. v. The Hertz Corporation, U.S.D.C., Eastern District of Pennsylvania, Master File, No. 88-661; In re Collision Near Chase, Maryland on January 4, 1987 Litigation, U.S.D.C., District of Maryland, MDL 728; In re Texas International Securities Litigation, U.S.D.C., Western District of Oklahoma, MDL No. 604, 84 Civ. 366-R; In re Chain Link Fence Antitrust Litigation, U.S.D.C., District of Maryland, Master File No. CLF-1; In re Winchell's Donut House, L.P. Securities Litigation, Court of Chancery of the State of Delaware, New Castle County, Consolidated Civil Action No. 9478; Bruce D. Desfor, et al. v. National Housing Ministries, et al., U.S.D.C., Eastern District of Pennsylvania, Civil Action No. 84-1562; Cumberland Farms, Inc., et al. v. Browning-Ferris Industries, Inc., et al., U.S.D.C., Eastern District of Pennsylvania, Master File

No. 87-3717; In re SmithKline Beckman Corp. Securities Litigation, U.S.D.C., Eastern District of Pennsylvania, Master File No. 88-7474; In re SmithKline Beecham Shareholders Litigation, Court of Common Pleas, Phila. County, Master File No. 2303; In re First Fidelity Bancorporation Securities Litigation, U.S.D.C., District of New Jersey, Civil Action No. 88-5297 (HLS); In re Qintex Securities Litigation, U.S.D.C., Central District of California, Master File No. CV-89-6182; In re Sunrise Securities Litigation, U.S.D.C., Eastern District of Pennsylvania, MDL 655; David Stein, et al. v. James C. Marshall, et al., U.S.D.C., District of Arizona, No. Civ. 89-66 (PHX-CAM); Residential Resources Securities Litigation, Case No. 89-0066 (D. Ariz.); In re Home Shopping Network Securities Litigation -- Action I (Consolidated Actions), Case No. 87-428-CIV-T-13A (M.D. Fla.); In re Kay Jewelers Securities Litigation, Civ. Action Nos. 90-1663-A through 90-1667-A (E.D. Va.); In re Rohm & Haas Litigation, Master File Civil Action No. 89-2724 (Coordinated) (E.D. Pa.); In re O'Brien Energy Securities Litigation, Master File No. 89-8089 (E.D. Pa.); In re Richard J. Dennis & Co. Litigation, Master File No. 88-Civ-8928 (MP) (S.D. N.Y.); In re Mack Trucks Securities Litigation, Consolidated Master File No. 90-4467 (E.D. Pa.); In re Digital Sound Corp., Securities Litigation, Master File No. 90-3533-MRP (BX) (C.D. Cal.); In re Philips N. V. Securities Litigation, Master File No. 90-Civ.-3044 (RPP) (S.D.N.Y.); In re Frank B. Hall & Co., Inc. Securities Litigation, Master File No. 86-Civ.-2698 (CLB) (S.D.N.Y.); In re Genentech, Inc. Securities Litigation, Master File No. C-88-4038-DLJ (N.D. Cal.); Richard Friedman, et al. v. Northville Industries Corp., Supreme Court of New York, Suffolk County, No. 88-2085; Benjamin Fishbein, et al. v. Resorts International, Inc., et al., No. 89 Civ.6043(MGC) (S.D.N.Y.); In re Avon Products, Inc. Securities Litigation, No. 89 Civ. 6216 (MEL) (S.D.N.Y.); In re Chase Manhattan Securities Litigation, Master File No. 90 Civ. 6092 (LJF) (S.D.N.Y.); In re FPL Group Consolidated Litigation; Case No. 90-8461 Civ. Nesbitt (S.D. Fla.); Daniel Hwang, et al v. Smith Corona Corp., et al, Consolidated No. B89-450 (TFGD) (D. Ct.); In re Lomas Financial Corp. Securities Litigation, C.A. No. CA-3-89-1962-G (N.D. Tex.); In re Tonka Corp. Securities Litigation, Consolidated Civil Action No. 4-90-2 (D. Minnesota); In re Unisys Securities Litigation, Master File No. 89-1179 (E.D. Pa.); In re Alcolac Inc. Litigation, Master File No. CV490-261 (Cir. Ct. Saline Cty. Marshall, Missouri); In re Clozapine Antitrust Litigation,

Case No. MDL874 (N.D. Ill.); In re Jiffy Lube Securities Litigation, C.A. No. JHY-89-1939 (D. Md.); In re Beverly Enterprises Securities Litigation, Master File No. CV-88-01189 RSWL (Tex.) [Central District CA]; In re Kenbee Limited Partnerships Litigation, CV-91-2174 (GEB) (D.N.J.); Greentree v. Procter & Gamble Co., C.A. No. 6309, April Term 1991 (C.C.P. Phila. Cty.); Moise Katz, et al v. Donald A. Pels, et al and Lin Broadcasting Corp., No. 90 Civ. 7787 (KTD) (S.D.N.Y.); In re Airlines Antitrust Litigation, MDL No. 861 (N.D. GA.); Fulton, Mehring & Hauser Co., Inc., et al. v. The Stanley Works, et al., No. 90-0987-C(5) (E.D. Mo.); In re Mortgage Realty Trust Securities Litigation, Master File No. 90-1848 (E.D. Pa.); Benjamin and Colby, et al. v. Bankeast Corp., et al., C.A. No. C-90-38-D (D.N.H.); In re Royce Laboratories, Inc. Securities Litigation, Master File Case No. 92-0923-Civ-Moore (S.D. Fla.); In re United Telecommunications, Inc. Securities Litigation, Case No. 90-2251-0 (D. Kan.); In re U.S. Bioscience Securities Litigation, C.A. No. 92-678 (E.D. Pa.); In re Bolar Pharmaceutical Co., Inc. Securities Litigation, C.A. No. 89 Civ. 17 (E.D. N.Y.); In re PNC Securities Litigation, C.A. No. 90-592 (W.D. Pa.); Raymond Snyder, et al. v. Oneok, Inc., et al., C.A. No. 88-C-1500-E (N.D. Okla.); In re Public Service Company of New Mexico, Case No. 91-0536M (S.D. Cal.); In re First Republicbank Securities Litigation, C.A. No. CA3-88-0641-H (N.D. Tex, Dallas Division); and *In re First Executive Corp. Securities Litigation*, Master File No. CV-89-7135 DT (C.D. Calif.).

* * *

Several courts have favorably commented on the quality of work performed by Arnold Levin, Levin, Fishbein, Sedran & Berman, and Mr. Levin's former firm, Adler, Barish, Levin & Creskoff.

Judge Rambo of the United States District Court for the Middle District of Pennsylvania has favorably acknowledged the quality of work of the law firm in her opinion in *In re Three Mile Island Litigation*, 557 F. Supp. 96 (M.D. Pa. 1982). In that case, the firm was a member of the Executive Committee charged with overall responsibility for the management of the litigation. Notably, the relief obtained included the establishment of a medical monitoring fund for the class. *See also*, *Township of Susquehanna*, *et al. v. GPU*, *et al.*, U.S.D.C., Middle District of Pennsylvania, Civil Action No. 81-0437.

In certifying the class in *Weiss v. York Hospital*, Judge Muir found that "plaintiff's counsel are experienced in the conduct of complex litigation, class actions, and the prosecution of antitrust matters."

Weiss v. York Hospital, No. 80-0134, Opinion and Order of May 28, 1981 at 4 (M.D. Pa. Mar. 1981).

See also, Weiss v. York Hospital, 628 F. Supp. 1392 (M.D. Pa. 1986). Judge Muir, in certifying a class for settlement purposes, found plaintiff's attorneys to be adequate representatives in *In re Anthracite Coal Antitrust Litigation*, Nos. 76-1500, 77-699, 77-1049 and found in the decision that "the quality of the work performed by Mr. Levin and by the attorneys from Adler-Barish [a predecessor to Levin, Fishbein, Sedran & Berman] who assisted him -- as exhibited both in the courtroom and in the papers filed -- has been at a high level." *In re Anthracite Coal Antitrust Litigation*, (M.D. Pa., Jan. 1979). Judge Muir also approved of class counsel in the certification decision of *Holmes, et al. v. Penn Security and Trust Co., et al.*, No. 80-0747. Chief Judge Nealon found plaintiffs' counsel to satisfy the requirement of adequate representation in certifying a class in *Beck v. The Athens Building & Loan Assn.*, No. 73-605 at 2 (D. Pa. Mar. 22, 1979). Judge Nealon's opinion relied exclusively on the Court's Opinion in *Sommers v. Abraham Lincoln Savings & Loan Assn.*, 66 F.R.D. 581, 589 (E.D. Pa. 1975), which found that "there is no question that plaintiffs' counsel is experienced in the conduct of a class action...."

Judge Bechtle in the *Consumer Bags Antitrust Litigation*, Civil Action No. 77-1516 (E.D. Pa.), wherein Arnold Levin was lead counsel for the consumer class, stated with respect to petitioner:

Each of the firms and the individual lawyers in this case have extensive experience in large, complex antitrust and securities litigation.

Furthermore, the Court notes that the quality of the legal services rendered was of the highest caliber.

In *Gentry v. C&D Oil Company*, 102 F.R.D. 490 (W.D. Ark. 1984), the Court described counsel as "experienced and clearly able to conduct the litigation."

In *Jaroslawicz v. Engelhard Corp.*, No. 84-3641 (D.N.J.), in which this firm played a major role, the Court praised plaintiffs' counsel for their excellent work and the result achieved.

In *In re Orthopedic Bone Screw Products Liability Litigation*, 2000 WL 1622741, *7 (E.D. Pa. 2000), the Court lauded Levin, Fishbein, Sedran & Berman counsel as follows: "The court also finds

that the standing and expertise of counsel for [plaintiffs] is noteworthy. First, class counsel is of high caliber and most PLC members have extensive national experience in similar class action litigation."

In *In re Diet Drugs (Phentermine, Fenfluramine, Dexfenfluramine) Products Liability Litigation*, MDL 1203, the Court commented on Levin, Fishbein, Sedran & Berman's efforts regarding the creation of the largest nationwide personal injury settlement to date as a "remarkable contribution". PTO No. 2622 (E.D. Pa. Oct. 3, 2002).

The firm has played a major role in most pharmaceutical litigation in the last 20 years. The firm is listed by Martindale-Hubbell in the Bar Register of Preeminent Lawyers.

EXHIBIT D

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

٧.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

DECLARATION OF GENE LOCKS, ESQUIRE IN SUPPORT OF CO-LEAD CLASS COUNSEL'S PETITION FOR AN AWARD OF ATTORNEY'S FEES AND REIMBURSEMENT OF COSTS AND EXPENSES

I, Gene Locks, Esquire, declare as follows pursuant to 28 U.S.C. § 1746:

1. I am a partner in the law firm known as the Locks Law Firm "(LLF"), located in Philadelphia, Pennsylvania. As one of four Class Counsel, I submit this declaration in support of Co-Lead Class Counsel's Petition for an Award of Attorney's Fees and Reimbursement of Costs and Expenses in connection with and for services rendered and expenses incurred for the common benefit of the Settlement Class in the above-captioned multidistrict litigation ("Action") from the inception of the above-captioned litigation through June 30, 2016, as well as for the

payment of expenses incurred therewith. I have personal knowledge of the matters set forth in this declaration and, if called upon, I could and would testify competently thereto.

- LLF was involved at the inception of these cases both when the initial complaints were filed on behalf of multiple players.
- 3. By January 2012, LLF represented approximately 200 retired players, most of whom had filed personal injury complaints against the NFL parties "NFL") in various courts around the country, including this Court. That number expanded through the time-period of 2012 to approximately 1400 players.
- 4. LLF took a leadership role at the outset in early 2012, attended the first organizational meeting of plaintiffs' counsel and helped organize the Plaintiffs Steering and Executive Committees, which the Court appointed.
- 5. LLF took a leading role in researching and developing the case on a class-wide basis from both a medical and legal standpoint LLF took the lead in retaining both legal and medical experts: Professor Tobias Barrington Wolff of the University of Pennsylvania Law School, an expert on Rule 23, to advise on all legal issues, and Donald H. Silberberg, M.D., Chair Emeritas of the Department of Neurology of the University of Pennsylvania to advise on all medical issues. Both were instrumental in providing guidance on the substance of the Personal Injury Master Complaint and the Medical Monitoring Class Action Complaint.
- 6. LLF partner David Langfitt researched and drafted, along with two other Executive Committee members, the Personal Injury Master Complaint, which was filed pursuant to an Order of this Court in early summer 2012. The Medical Monitoring Class Action Complaint was modeled off the Master Personal Injury Complaint.

- 7. Those Complaints were the foundation of the current case, gained nationwide publicity for the cause, and focused the plaintiffs and defendants on a central pleading.
- 8. By the time this Court appointed two members of LLF (I, Gene Locks, and David Langfitt) as members of the Plaintiffs Executive Committee in the spring of 2012, LLF represented approximately 1000 retired players, all of whom had filed, or were in the process of filing, personal injury cases against the NFL.
- 9. LLF was directly involved in the drafting of opposition papers and the hearing related to the NFL's Motion to Dismiss on the grounds of pre-emption.
- By agreement of Co-Lead Counsel, I, Gene Locks, was appointed within the
 Executive Committee as Settlement Counsel for settlement discussions ordered by the Court.
- 11. I directly participated in settlement discussions ordered by the Court while the NFL's Motion to Dismiss was pending. During those discussions, LLF prepared a substantial injury database primarily involving the clients represented by Class Counsel and particularly elients represented by LLF that Plaintiffs' counsel used to convey to the NFL the nature of the diseases and injuries sustained by the retired players. The parties used the database to develop a framework for settlement.
- 12. During those discussions, I substantially relied on the advice and counsel of my partners and, in part, Professor Wolff and Dr. Silberberg, in formulating a term sheet that was legally and scientifically supportable, was based on the best factual evidence of injury and causation that we had at that time, and was consistent with a reasonable compromise.
- 13. At all times, the compromise and accord was designed to settle the matter efficiently and reasonably, bearing in mind that further risks of litigation were unpredictable and

presented the unwanted possibility of many years, possibly decades, of litigation and appeals while retired players died and families disintegrated.

- 14. At all times, we within the Plaintiffs settlement leadership, now Class Counsel, understood that the Court desired a reasonable and effective settlement structure, and we strived to provide that.
- 15. Once the Plaintiffs and NFL reached a term sheet in August of 2013, LLF's role changed and became critical to making sure the vast LLF client base and their retired player friends and families understood the basis of the term sheet, the purpose of the accord and compromise, and the role of the Court in protecting the absent class members.
- 16. Throughout 2013 and 2014, LLF explained to every class member and family member who inquired (many of whom were not clients of LLF) how the settlement structure effected each player and family, the value of the compromise and accord for the class, together with the long-term risks of further litigation, and the fiduciary role of the Court with respect to the absent class members.
- 17. Very few retired players with whom LLF communicated either objected or optedout of the Settlement Agreement. LLF's leadership in that regard created a ripple effect in the retired player community, which overwhelmingly accepted the compromise and accord as reasonable under all of the complex circumstances of this case.
- 18. LLF also was instrumental in interacting with a very large number of neurologists and neuropsychologists throughout the nation, a collateral benefit of which was their recruitment into and future participation in the BAP and MAF programs for the benefit of the class members (the vast majority of retired players).

- 19. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of common benefit time spent by LLF attorneys and professional support staff of my firm who were involved in, and billed fifty or more hours to, this Action, and the lodestar calculation for those individuals based on LLF's current billing rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended in preparing this application for attorney's fees and expenses has been excluded.
- 20. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in other legal matters.
- 21. The total number of hours expended on the common benefit of this Action by my firm during the time period is 4243 hours. The total lodestar for my firm for those hours is \$3,084,500, all of which is for attorneys' time.
- 22. My firm's lodestar figures are based solely upon my firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.
- 23. As detailed in Exhibit 2 hereto, my firm is seeking reimbursement of a total of \$639,160 in common benefit expenses incurred in connection with the prosecution of this Action. These expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source material, and are an accurate record of the expenses incurred.

24. With respect to the standing of my firm to share in an award of fees, costs, and expenses, attached hereto as Exhibit 3 is a biography of my firm, including the attorneys in my firm who were principally involved in this Action.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 10, 2017 in Philadelphia, Pennsylvania.

Gene Locks, Esquire

EXHIBIT 1

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

LOCKS LAW FIRM 610 Walnut Street, Suite 720E Philadelphia, PA 19106 215-893-3423

LODESTAR REPORT

Inception through July 15, 2016

NAME	HOURS	HOURLY RATE	AMOUNT
PARTNERS:			
Gene Locks	1284	\$900	\$1,155,000
David D. Langfitt	2691	\$650	\$1,749,150
Michael B. Leh	93	\$700	\$65,100
Jonathan Miller	175	\$550	\$96,250
STAFF ATTORNEYS:			
None			
CONTRACT ATTORNEYS:			
None			
PARALEGALS:			
None			
TOTALS:	4243		\$3,084,500

EXHIBIT 2

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

LOCKS LAW FIRM 610 Walnut Street, Suite 720E Philadelphia, PA 19106 215-893-3423

COST AND EXPENSE REPORT

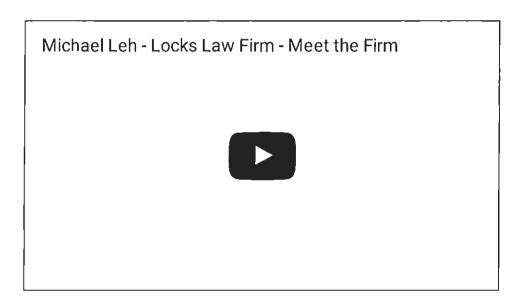
Inception through June 30, 2016

NUMBER	CATEGORY	AMOUNT
1	Assessments	\$550,000
2	Commercial Copies	
3	Computerized Research	
4	Court Reporters/Transcripts	
5	Expert Services	\$70,150
6	Facsimile	
7	Filing & Service Fees	
8	In-House Copies	
9	Long Distance Telephone	
10	Postage/Express Delivery	
11	Travel/Meals/Lodging	\$19,010
12	Miscellaneous	
TOTAL EXPENSES		\$639,160

EXHIBIT 3



About Us



One of the most prominent personal injury law firms in the tri-state region, the Locks Law Firm is steadfastly committed to protecting the rights of seriously injured victims

With a focus on mass tort and complex personal injury cases, our firm has the resources to handle any case--whether simple or complex--while still providing individual attention to each and every client. Our experienced lawyers have the knowledge to guide you throughout the legal process to achieve the best possible resolution of your case.

Who We Are

1/10/2017 Casease-20122md D000130 en B 000011083410559125/Err Practice 5206/13/Date Priled: 108/009/2019

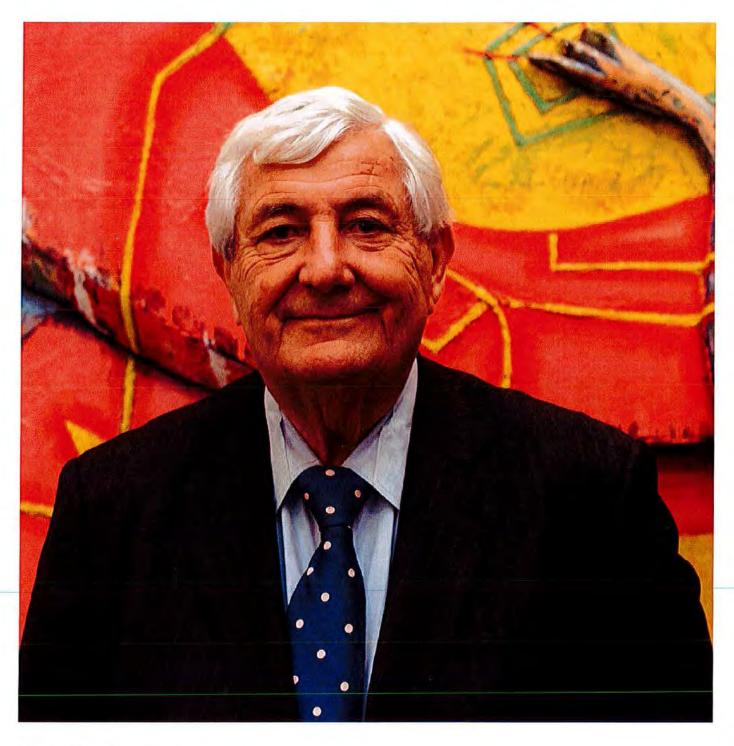
Founded by Gene Locks, the firm first distinguished itself as a leader in the development of strategies for asbestos litigation (/practice-areas/environmental-and-toxic-torts/asbestos-mesothelioma/mesothelioma-litigation-information/), successfully representing thousands of workplace exposure (/practice-areas/environmental-and-toxic-torts/workplace-exposure/) victims. Today our Pennsylvania, New Jersey, and New York personal injury lawyers are nationally and internationally prominent in numerous fields and are frequently successful in dangerous pharmaceutical (/practice-areas/dangerous-pharmaceuticals/), complex personal injury (/personal-injury/), and consumer class-action litigation (/practice-areas/consumer-class-actions/).

What We Do

At Locks Law Firm (/), our experienced personal injury lawyers are committed to protecting the rights of individuals and families who suffered as a result of the negligent or reckless conduct of another. We assist victims throughout Pennsylvania, New Jersey, and New York and travel to other states as needed. We **do not** represent insurance companies. The goal of our personal injury lawyers (/team/) is to promote the development of a safer society by seeking jury verdicts that take the profit out of negligent conduct and the manufacture of defective products (/practice-areas/defective-products/).

We practice law with the highest professional integrity. We thoroughly investigate and emphasize the merits of each case we handle and present them in the most organized and effective manner to insurance adjustors, opposing attorneys, and jurors. Each of our personal injury lawyers has extensive courtroom experience and our attorneys are assisted by a team of more than one hundred professionals with backgrounds in insurance, law enforcement, engineering, accident reconstruction, economic assessment, and investigation. If you have been injured and are in need of dedicated, trustworthy representation, contact our Philadelphia, New York, and New Jersey personal injury lawyers (/contact/).

LOCKS LAW FIRM (http://www.lockslaw.com/)



Gene Locks, Partner

1/10/2017 Casea18-20122mdD0001181ehB 000011831165925110Pagete5282/13/Date Filed:108/09/2019

(215) 893-3434 (tel:+12158933434)

(215) 893-3444

✓ glocks@lockslaw.com (mailto:glocks@lockslaw.com)

The Curtis Center
 Suite 720 East
 601 Walnut Street

Background and Experience

Gene Locks is married to Sueyun Pyo Locks and the proud father of six daughters. He resides in Philadelphia, Pennsylvania and Fisher Island, Florida.

Gene is the founding and managing partner of Locks Law Firm, a prominent national environmental, litigation, and consumer-oriented law firm formed in 1966, with offices in Philadelphia, New York and New Jersey. He is a graduate of Princeton University, and received his Doctor of Laws degree from Columbia University. He is admitted to practice law in Pennsylvania, New Jersey, New York, as well as many federal courts in the United States.

The Locks Law Firm was founded by Gene Locks, who established the Firm in Philadelphia, New York and New Jersey after more than 40 years of practice. Since then, the firm has grown into a prominent national environmental, personal injury, consumer-oriented, and complex litigation law firm.

Gene was born and raised in the Philadelphia area and is the product of the Philadelphia public school system. He has dedicated his life to representing the people of Philadelphia and beyond, who have been used and abused by the legal system. He obtains justice for the working people of the world and focuses his work exclusively on helping individuals, not corporations, obtain justice through the legal system. He is an innovator, creator, and a pioneer. Gene Locks is a true people's lawyer.

Gene was a pioneer in asbestos personal injury litigation (/practice-areas/environmental-and-toxic-torts/asbestos-mesothelioma/asbestosis/), having handled such cases and obtaining precedential verdicts in decisions in Pennsylvania, New Jersey, New York and Virginia, since 1974. Asbestos litigation has since become the largest mass tort in the United States. Gene and the personal injury attorneys at Locks Law Firm have represented in excess of 16,000 personal injury victims in more than 20 different states. Gene is co-counsel and acts in a pro hac vice capacity in both federal and state courts across the country. Gene has tried hundreds of these complex product liability (/practice-areas/defective-products/) matters. He has participated directly and as amicus in numerous appeals resulting in precedent-setting opinions in many states that have become landmark decisions on a wide spectrum of issues.

Thanks to his litigation experience, negotiating reputation and his ability to persevere and sustain lengthy litigation, Gene was appointed by the Honorable Jack B. Weinstein of the Eastern District of New York to the Management Committee of the Agent Orange Litigation, MDL 381. He directed the liability and medical aspects of the Agent Orange cases and was co-chair of the negotiating committee which, at the time, resulted in the largest class action settlement of a personal injury class of victims.

After negotiating the Agent Orange settlement, Gene became involved in other major toxic tort litigation (/practice-areas/environmental-and-toxic-torts/) primarily involving environmental and occupational exposure to hazardous substances. This led, in the early 1990s, to his being named as lead counsel in the nationally $\frac{1}{1}$

1/10/2017 Caseas8-20122mdDocsmehB 003c183s4659251mPagee529/13Date Filed:108/09/2019 coordinated asbestos cases. He ultimately became class counsel in a case in which an innovative and creative solution to many major asbestos litigation problems was developed. The principles developed and negotiated have become a model for recent national asbestos resolutions.

Gene served as co-lead counsel in the Asbestos Personal Injury Litigation, MDL 875 in Philadelphia for many years. He became the Chairman and Director of the Board of UNR Industries, Inc. and director of Celotex Corporation and Raytech Corporation, reorganized multi-million dollar former asbestos companies which have paid millions of dollars in benefits to hundreds of thousands of asbestos victims. Gene was chief negotiator representing victims in almost all the 20th century bankruptcy re-organizations. Gene and the attorneys of Locks Law Firm have also represented numerous school districts and other entities across the nation in property damage cases arising from asbestos exposure.

In the late 1990s, Gene and Locks Law Firm attorneys filed class actions in the Diet Drug (Fen-Phen@) Litigation in New York, Pennsylvania and New Jersey. Gene was co-lead negotiator in that litigation which culminated in a 3.75 billion dollar settlement of those claims (in Brown v. American Home Products Corp, MDL 1203).

Gene, a former quarterback in college and high school, is a man who plays to win. He chooses to represent those with just positions who deserve to win against the abuses created by large global companies. Nationally and internationally, he and the firm fight to right the injustices of corporate misbehavior by helping individuals to obtain their fair day in court. A born leader, Gene is known for creating winning teams that bring people justice.

Business Activities

Chairman, UNR Industries, Inc. (NASDAQ), 1991 - 1999
Director, UNR Industries, Inc., 1989 - 2002
Director, Celotex Corporation, 1997 - 2001
Chairman, APEX Teletech Resources, Inc., 1996 - 1997
President, Locks Investments, Ltd., 1990 - Present
Director, Raytech Industries, Inc. (NASDAQ), 2001 - 2009

Personal Activities

Chairman, Board of Managers - The Philadelphia Foundation, one of the largest community foundation in a U.S. city, 1999 – Present,

Board of Managers - The Philadelphia Liberty Medal, 2005
Advisory Board Chairman Fund for Children - 2006
Trustee and Chairman, Asbestos Victims Special Fund Trust, 1988 - 1996
Board Member - Oceanside Five Condominium Association - 2006 - Present

Outside the Office

Gene Locks is married to Sueyun Pyo Locks and the proud father of six daughters. He resides in Philadelphia, Pennsylvania and Fisher Island, Florida. Although his first love is the Princeton Tigers, during baseball season, he can often be found cheering on the St. Louis Cardinals.

Blog Posts

 $APPEALS\ DENIED\ -\ NFL\ CONCUSSION\ SETTLEMENT\ FINAL\ (http://www.lockslaw.com/blog/2016/12/12/appeals-denied-nfl-concussion-settlement-final/)$

1/10/2017 Casea18-20122mdD0c1180-008118314659251mParpies502/13/Date Filed:108/09/2019

NFL Concussion Appeal Filed with U.S. Supreme Court Means More Delays

(http://www.lockslaw.com/blog/2016/09/02/nfl-concussion-appeal-filed-with-u-s-supreme-court-means-more-delays/)

Legendary All-Pro Football Player Bubba Smith the Latest to be Diagnosed with CTE

(http://www.lockslaw.com/blog/2016/05/27/legendary-football-player-bubba-smith-the-latest-to-be-diagnosed-with-cte/)

A Message From The Locks Law Firm - Proposed NFL Concussion Litigation Settlement (http://www.lockslaw.com/blog/2013/08/29/a-message-from-the-locks-law-firm-proposed-nfl-concussion-litigation-settlement/)



Practice Areas

Asbestos Exposure (/practice-areas/environmental-and-toxic-torts/asbestos-mesothelioma/)

Toxic Torts (/practice-areas/environmental-and-toxic-torts/)

Dangerous Pharmaceuticals (/practice-areas/dangerous-pharmaceuticals/)

Product Liability (/practice-areas/consumer-class-actions/)

Environmental Litigation (/practice-areas/environmental-and-toxic-torts/)

Professional Negligence

Admitted to Practice

Pennsylvania, New York, New Jersey, District of Columbia as well as many federal courts in the United States

Education

Columbia University School of Law, J.D. 1962 Princeton University, B.A. 1959

Professional Affiliations

American Association for Justice

Board Affiliations and Appointments

Lead counsel in numerous major national litigation matters and either chairman or member of numerous Chapter 11 reorganization committees involving large manufacturing companies and lead or class counsel in major national class action proceedings.

Co-Lead Class Counsel of Brown, et al. v. American Home Products Corporation

Diet Drug Class Action and Civil Action No. 99-20593, 1999-present

Co-Lead Class Counsel of Georgine, et al. v. Amchem Products, et al

Asbestos Victim Class Action and Civil Action No.9.-CV-0215, 1992-1997

1/10/2017 Casease-20122md D003126eAB 00031283346559251m Pagide 5312/13/Date Filed: 108/009/2019

Member and Co-Chairman

Agent Orange Plaintiffs' Management Committee and Negotiating and Causation Sub-Committees, 1983-1987

Chairman and/or Lead Negotiator of the following reorganized companies:

Official Creditors Committee of Asbestos-Related Plaintiffs

MANVILLE Chapter 11 Proceeding, a successfully reorganized public company, in New York, New York Bankruptcy Court, 1982 - 1988

UNR INDUSTRIES, INC.

Chapter 11 Proceedings, a successfully reorganized public company, in Chicago, Illinois Bankruptcy Court,1982 - 1989

THE CELOTEX CORPORATION

Chapter 11 Proceeding, a successfully reorganized company, in Tampa, Florida Bankruptcy Court, 1990 - 1997

EAGLE-PICHER INDUSTRIES, INC., a successfully reorganized public company, in Cincinnati, Ohio Bankruptcy Court, 1991 - 1996

RAYTECH INDUSTRIES, INC., a successfully reorganized public company, in Connecticut Bankruptcy Court, 2001.

Numerous Lead Counsel roles in various state court coordinated case management complex litigation matters.

Certifications and Awards

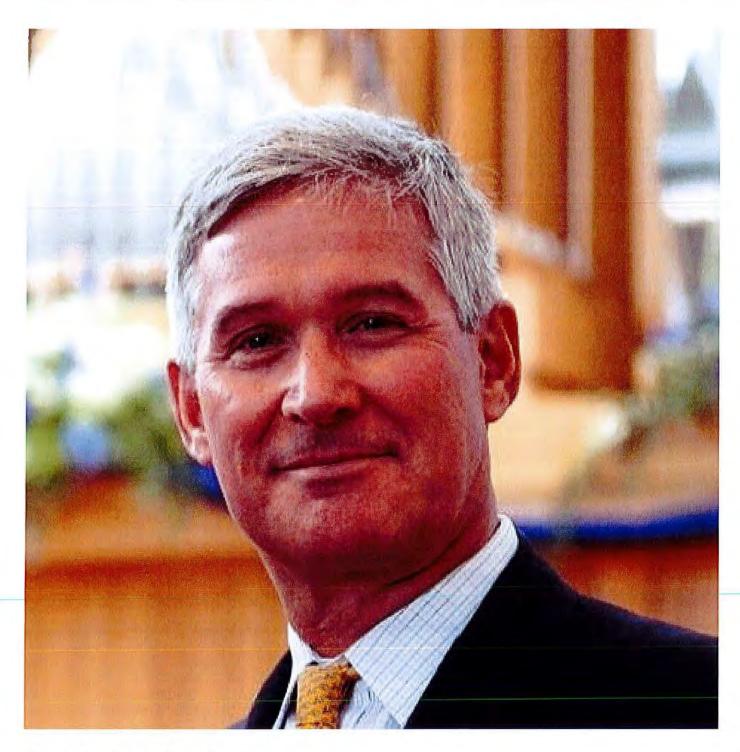
Pennsylvania Association for Justice Stalwart Award
NJ Bar Association William A Dreier Award Winner - 2012

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LOCKS LAW FIRM (http://www.lockslaw.com/)



David D. Langfitt, Partner

1/10/2017 Casea\$8-20122mdD0c3k16ehB 000c138946599251-Page 45382/13Date Filed: 208/09/2019

(215) 893-3423 (tel:+12158933423)

(215) 893-3444

☑ dlangfitt@lockslaw.com (mailto:dlangfitt@lockslaw.com)

The Curtis Center
Suite 720 East
601 Walnut Street

Background and Experience

David Langfitt has practiced complex commercial litigation for more than twenty-three years and specializes in litigation and trials involving numerous parties, claims, and courts, both state and federal. He has litigated a wide variety of complex cases involving mass tort claims, the federal securities laws, professional liability, merger agreements, pre-packaged bankruptcy plans, fraud, breach of fiduciary duty, and infringement of patents and copyrights.

Mr. Langfitt is on the Court-appointed Plaintiffs' Executive Committee in the NFL Concussion Litigation. He is among the leaders of that ongoing litigation in which the Locks Law Firm represents more than 1600 former players against the NFL for latent and existing brain injury. He has also been lead counsel in the Artelon Spacer Litigation, a medical device mass tort in the Philadelphia Court of Common Pleas.

At the same time, he serves as nationwide patent litigation counsel to Q.I. Press Controls, an international technology company based in Holland. He has represented QI in multiple cases in courts throughout the United States that have involved patent infringement disputes and disputes that arose out of patent re-examinations within the U.S. Patent and Trademark office. Representative opinions can be found at *Quad/Tech v. QI Press Controls, et al.*, 701 F. Supp. 2d 644 (E.D. Pa. 2010), *aff'd*, 2011 U.S. App. LEXIS 5729 (Fed. Cir. 2011) and *QI Press Controls v. Lee*, 752 F.3d 1371 (Fed. Cir. 2014).

Prior to joining the Locks Law Firm, Mr. Langfitt was a partner at Montgomery, McCracken, Walker & Rhoads LLP in Philadelphia from 1999 to 2010. During that time period, Mr. Langfitt represented Federal Receiver David H. Marion, appointed at the request of SEC to recover, oversee, and distribute to more than one thousand defrauded investors the assets of a Ponzi Scheme operated through Bentley Financial Services, Inc. of Paoli, PA. The Bentley Scheme was the largest Ponzi Scheme in the United States when it was discovered in 2001. Eleven years of experience includes:

Recovered approximately \$360,000,000 for the benefit of defrauded investors, which is approximately ninety-three percent of the investors' principal.

Filed and litigated multiple complaints against banks and others for aiding and abetting and conspiring with the Ponzi Scheme.

Investigated and pursued off-shore assets in Caribbean and South Pacific nations.

Operated Receivership as business entity that successfully marshaled assets, conducted litigation, distributed recovered assets, and regularly communicated through a public website with more than one thousand defrauded investors regarding claims, distribution, and litigation process.

1/10/2017 Casea18-20122mdD0c0173eAB 0000118034650251-Page 65042/13Date Filed: 208/09/2019

Mr. Langfitt also has extensive experience litigating in the bankruptcy courts and has represented creditors in *In Re: Bondex* (U.S. District Court, District of Delaware), *In Re: Combustion Engineering* (U.S. District Court, District of Delaware), and *In Re: Nutraquest* (U.S. District Court, District of New Jersey).

Mr. Langfitt also served as lead litigation counsel to Celotex Corporation in (a) 551 wrongful death and personal injury cases brought in connection with 2003 fire at The Station nightclub in West Warwick, Rhode Island; (b) personal injury cases brought in connection with manufacturing plants in multiple states; (c) in negotiations with USEPA regarding environmental regulations, control equipment, and clean air act issues; and (d) contract litigation over the sale of manufacturing plants nationwide.

While an associate at Montgomery McCracken, Mr. Langfitt was *Habeas Corpus* counsel to a former death row inmate and succeeded in overturning the petitioner's conviction for first degree murder in *Smith v. Horn*, 120 F.3d 400 (3d Cir. 1997).

Personal

Trustee, Philadelphia Museum of Art
Trustee, The Episcopal Academy
Board of Directors, Episcopal Community Services
Board of Directors, Lankenau Institute for Medical Research
Former Chair, Philadelphia Mural Arts Program

Outside the Office

Mr. Langfitt is married with three children. Prior to becoming a lawyer, he was professional painter living and working in New York City. Some of his work is owned by the School of American Ballet, The United States Federal Courts, The University of Pennsylvania, and The College of Physicians of Philadelphia.

Blog Posts

Locks Attorney David Langfitt Talks Youth Sports and the Law (http://www.lockslaw.com/blog/2016/05/24/locks-attorney-david-langfitt/)

Buyer Beware: Switching Counsel is at an All-Time High in the NFL Concussion Litigation

(http://www.lockslaw.com/blog/2016/02/08/buyer-beware-switching-counsel-is-at-an-all-time-high-in-the-nfl-concussion-litigation-2/)

Legendary N.F.L. Player Ken Stabler Diagnosed with C.T.E.

(http://www.lockslaw.com/blog/2016/02/03/legendary-n-f-l-player-ken-stabler-diagnosed-with-c-t-e/) and the stable of the stabl

LLF Attorney David Langfitt Interviewed about Youth Sports (http://www.lockslaw.com/blog/2015/12/14/llf-attorney-david-langfitt-interviewed-about-youth-sports/)

Third Circuit Sets Date for Oral Argument in NFL Concussion case

(http://www.lockslaw.com/blog/2015/09/11/third-circuit-sets-date-for-oral-argument-in-nfl-concussion-case/)



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Practice Areas

Comercial Litigation

Patent Litigation

Class Actions (/practice-areas/consumer-class-actions/)

Personal Injury

Securities

Concussions and Sports-Related Head Injuries (/practice-areas/sports-injuries/)

Admitted to Practice

Pennsylvania

New Jersey

United States District Court for the District of New Jersey

United States District Courts for the Eastern, Middle, and Western Districts of Pennsylvania

United States District Court Eastern District of Michigan

United States District Court of Rhode Island

Court of Appeals for the Third Circuit

Court of Appeals for the Federal Circuit

Supreme Court of the United States

Education

B.A. University of Pennsylvania in 1979

M.Sc. The London School of Economics in 1980

J.D. New York University School of Law in 1992

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LOCKS LAW FIRM (http://www.lockslaw.com/)



Michael B. Leh, Partner

1/10/2017 Casea18-20122md D03170 eAB 000118340559256- Pape 65372/13/Date Filed: 208/09/2019

(215) 893-3410 (tel:+12158933410)

(215) 893-3444

Mileh@lockslaw.com (mailto:mleh@lockslaw.com)

▼ The Curtis Center
 Suite 720 East
 601 Walnut Street

Background and Experience

Michael Leh has been Managing Partner of the Locks Law Firm since 2003 and is a member of the firm's Management Committee. He joined the firm as a law clerk while attending evening division law school in 1983. Mr. Leh specializes in mass torts and other complex litigation. He is a member of the bars of Pennsylvania and New Jersey and has tried cases in state and federal courts throughout the country. His verdicts in Coyne vs. Celotex Corp., et. al. and McCoubry vs. Celotex Corp., et al. were the largest verdicts in the United States in 1988, totaling over \$150 million. He has tried over 100 jury and bench trials and has obtained numerous other seven-figure verdicts.

Mr. Leh has represented plaintiffs in asbestos litigation, numerous pharmaceutical and medical device litigations, environmental cases, occupational benzene cases, and other complex litigations, including the NFL Concussion Litigation. He has written and spoken on various topics related to complex personal injury cases and has been featured in a number of national publications.

Outside the Office

When not dealing with his job or his five children and his grandchildren, Michael most enjoys nature, whether hiking, kayaking, or just sitting and silently appreciating his surroundings.

Blog Posts

Justice is Near for South African Gold Miners (http://www.lockslaw.com/blog/2016/06/22/justice-is-near-for-south-african-gold-miners/)

We Will Always Need Lawyers as Victims Will Always Need Justice

(http://www.lockslaw.com/blog/2016/05/16/we-will-always-need-lawyers-as-victims-will-always-need-justice/) Key Asbestos Decision Expected (http://www.lockslaw.com/blog/2016/04/21/1415/)

Amtrak Crash Kills Two, Leaves Dozens Injured (http://www.lockslaw.com/blog/2016/04/04/amtrak-crash-kills-two-leaves-dozens-injured/)

Defending the Right to Class Action Lawsuits (http://www.lockslaw.com/blog/2015/12/11/defending-the-right-to-class-action-lawsuits/)





Practice Areas

Toxic Torts (/practice-areas/environmental-and-toxic-torts/)
Asbestos Exposure (/practice-areas/environmental-and-toxic-torts/asbestos-mesothelioma/)
Dangerous Pharmaceuticals (/practice-areas/dangerous-pharmaceuticals/)
Chemical Exposure (/practice-areas/environmental-and-toxic-torts/chemical-exposure/)
Environmental Litigation (/practice-areas/environmental-and-toxic-torts/)
Complex Personal Injury

Admitted to Practice

Pennsylvania (1985)
New Jersey (1985)
US District Court, Eastern District of Pennsylvania
US District Court, Middle District of Pennsylvania
US District Court, New Jersey
US Court of Appeals, Third Circuit

Education

Bachelor of Arts Temple University, 1979 (cum laude) Juris Doctor, Temple University School of Law, 1985

Professional Affiliations

American Association for Justice American Bar Association Pensylvania Bar Association Pennsylvania Association for Justice Philadelphia Association for Justice

Do I have a case? Free Case Evaluation

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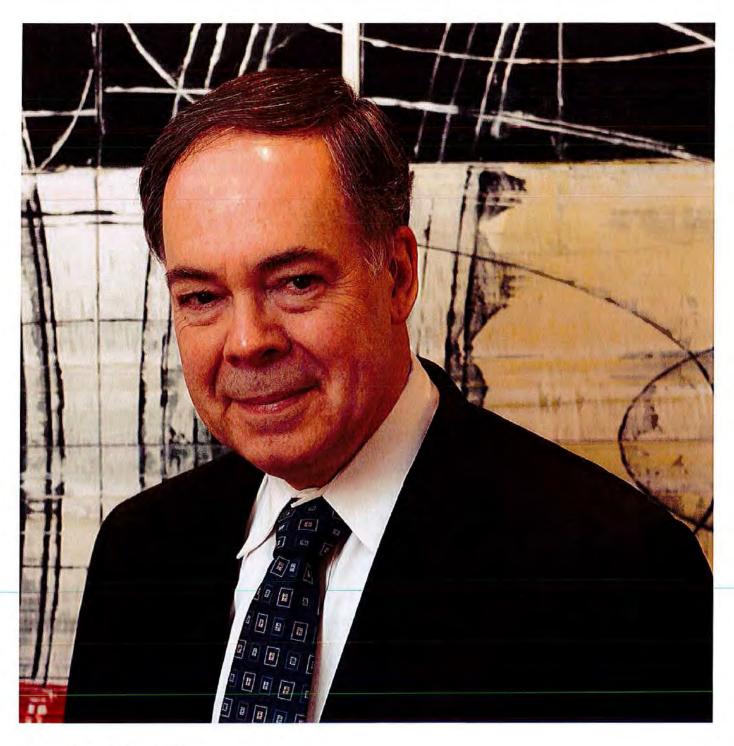
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Jonathan W. Miller, Partner

1/10/2017 Casea18-20122mdDDC11864hB 006118641659251374676954467/13/Date Filed: 208/09/2019

(215) 893-3405 (tel:+12158933405)

4 (215) 893-3444

The Curtis Center Suite 720 East 601 Walnut Street

Background and Experience

Jonathan Miller is a partner who specializes in appellate practice and complex litigation. He has written and argued appellate briefs in the Pennsylvania and New Jersey appellate courts as well as the United States Courts of Appeals for the Third and Ninth Circuits. He has participated in appeals that changed the law. A significant victory was as an amicus curiae on behalf of the New Jersey Association for Justice in Nicastro v. McIntyre Machinery America, Ltd., 201 N.J. 48, 987 A.2d 575 (2010), in which the New Jersey Supreme Court adopted his argument that the realities of globalization should be considered in applying the stream of commerce theory of personal jurisdiction. The Nicastro case subsequently went to the US Supreme Court, where Mr. Miller was the lead author of an amicus brief on behalf of the American Association for Justice.

Another case stopped the retroactive application of law that barred claims of increased risk and fear of asbestos-related cancer. See Cleveland v. Johns-Manville Corp., 547 Pa. 402, 690 A.2d 1146 (1997). Another addressed the novel issue in New Jersey of apportionment of damages for lung cancer between asbestos exposure and cigarette smoking. See Dafler v. Raymark Industries, Inc., 259 N.J. Super. 17, 611 A.2d 136 (App. Div. 1992), affirmed, 132 N.J. 96, 622 A.2d 1305 (1993) (per curiam). He submitted amicus curiae briefs on the issues of set-offs in strict liability verdicts, see Baker v. AC&S, Inc., 562 Pa. 290, 755 A.2d 664 (2000), and of costs on behalf of the Pennsylvania Association for Justice in the landmark Paoli Railroad Yard PCB Litigation cases. See In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449, 465-66 & n.8 (3rd Cir. 2000). He was in charge of appellate briefing and argument on the issue of forum non conveniens on behalf of all United Kingdom residents who filed suit in New Jersey state court for injuries caused by Vioxx. See In re Vioxx Litigation, 395 N.J. Super. 358, 928 A.2d 935 (App. Div.), certif. denied, 193 N.J. 221, 936 A.2d 968 (2007).

He was Chief of Appeals in the Defender Association of Philadelphia prior to joining Locks Law Firm. As an assistant public defender, one of his cases established Pennsylvania law on the withdrawal of guilty pleas. See Com. v. Forbes, 450 Pa. 185, 299 A.2d 268 (1973). Another won a complicated question of federal-state immunity, see Com. v. Fattizzo, 223 Pa. Super. 378, 299 A.2d 22 (1972).

Complex Litigation

Mr. Miller has extensive experience in complex litigation of all types, including class actions. In Hazleton, PA, service stations leaked gasoline from their underground storage tanks, polluting a residential area, sickening or killing over a dozen of the neighbors and lowering the value of 400 homes. From 2000 to 2010, he was the partner in charge of day to day prosecution of the Hazleton environmental lawsuits involving 1100 neighbors as plaintiffs against four major oil companies and over a dozen additional defendants. He has previously litigated asbestos property damage and personal injury cases in Denver, Chicago, New York and Kentucky, in addition to medical

1/10/2017 Casea18-20122mdD003113ehB 000113911659291 Prage 5422/13Date Faled: 308/09/2019

device and breach of contract cases in Philadelphia. He litigated over a thousand criminal cases as an assistant public defender where, in addition to being Chief of Appeals, he was Chief of Motions and Juvenile and an assistant federal defender. Mr. Miller also litigated a medical negligence case in Wilkes-Barre, PA in 2015.

He has participated in major asbestos bankruptcies. In a rare honor, he was accepted in the Celotex bankruptcy as an expert witness on the subject of asbestos property damage. He has participated in ground-breaking asbestos class action and bankruptcy settlements, including Amchem, Diet Drugs, and Celotex.

Outside the Office

Jonathan served the poor as a Philadelphia public defender for 15 years. He likes to read, listen to classical music and serve his church.

Blog Posts

Recent Positive Developments in Mesothelioma Lawsuits (http://www.lockslaw.com/blog/2016/11/29/goodnews-for-mesothelioma-victims/)

Videos show what happened, but can police refuse to produce them?

(http://www.lockslaw.com/blog/2016/11/23/videos-show-what-happened-but-can-police-refuse-to-produce-them/)

Tulsa, Oklahoma and the Right to Know Law (http://www.lockslaw.com/blog/2016/09/21/tulsa-oklahoma-and-the-right-to-know-law/)

The Pennsylvania Right to Know Law is a Great Tool (http://www.lockslaw.com/blog/2016/08/24/the-pennsylvania-right-to-know-law-is-a-great-tool/)

Videos Are Powerful, and Police Dash Cam Videos Are Discoverable

(http://www.lockslaw.com/blog/2016/07/08/videos-are-powerful-and-police-dash-cam-videos-are-discoverable/)

Practice Areas

Toxic Torts (/practice-areas/environmental-and-toxic-torts/)

Complex Litigation

Class Actions (/practice-areas/consumer-class-actions/)

Trial Practice

Appellate Practice (/practice-areas/other-practice-areas/appeals-appellate-work/)

Admitted to Practice

Pennsylvania (1970);

U.S. District Court, Eastern District of Pennsylvania (1971);

U.S. Court of Appeals, Third Circuit (1972);

U.S. Supreme Court (1986);

U.S. District Court, Middle District of Pennsylvania (1986);

New Jersey (1987);

U.S. District Court, District of New Jersey (1986);

U.S. Court of Appeals, Tenth Circuit (1988);

New York Supreme Court, Third Department (1997);

U.S. Court of Appeals, Ninth Circuit (2011);

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U.S. District Court, Southern District of New York (2013)

U.S. District Court, Eastern District of New York (2013).

Education

Yale University, cum laude, 1967 University of Pennsylvania, cum laude, Order of the Coif, and Law Review, 1970

Professional Affiliations

New Jersey Association for Justice Pennsylvania Association for Justice American Association for Justice 3rd Circuit Bar Association

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EXHIBIT E

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs.

V.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

DECLARATION OF STEVEN C. MARKS IN SUPPORT OF CO-LEAD CLASS COUNSEL'S PETITION FOR AN AWARD OF ATTORNEY'S FEES AND REIMBURSEMENT OF COSTS AND EXPENSES

STEVEN C. MARKS declares as follows pursuant to 28 U.S.C. § 1746:

1. I am a Partner of the law firm of Podhurst Orseck, P.A. I submit this declaration in support of Co-Lead Class Counsel's Petition for an Award of Attorney's Fees and Reimbursement of Costs and Expenses in connection with and for services rendered and expenses incurred for the common benefit of the Settlement Class in the above-captioned multidistrict litigation ("Action") from the inception of the litigation through July 15, 2016, as well as for the payment of expenses incurred therewith. I have personal knowledge of the

matters set forth in this declaration and, if called upon, I could and would testify competently thereto.

- 2. This multi-district litigation has its roots in the independent efforts of multiple law firms, including my own, in 2011 to investigate the epidemic of traumatic brain injury among retired NFL players. My firm began investigating the possibility of a suit against the NFL in the Summer of 2011, after receiving inquiries on behalf of several former players. After investigating the history of the NFL's handling of the problem and researching the law applicable to potential claims and likely defenses, our firm make the commitment to devote the considerable resources of personnel, time, and funds that would be necessary to take on the goliath of the NFL on an issue of vital importance to its business.
- 3. We were formally retained by a number of former players in October 2011. After performing additional research and consulting experts in the field of neurology, we prepared and on December 22, 2011, filed a complaint on behalf of our initial clients in federal court in Miami, Florida. That case is captioned *Jones v. National Football League*, Case No. 11-cv-25494 (S.D. Fla.).
- 4. Largely as a result of that filing, my partners and I were thereafter contacted and ultimately retained by dozens of additional former players who also wished to assert claims against the NFL. Notably, on January 18, 2012, we were retained by Kevin Turner, a former NFL veteran player who had recently been diagnosed with ALS. We amended the *Jones* complaint on January 20, 2012 to include additional clients as plaintiffs.
- 5. As other attorneys across the country began filing similar lawsuits, the NFL sought to centralize the litigation and filed a petition with the Judicial Panel on Multidistrict Litigation ("JPML"). The petition was set for hearing on the JPML's January 25, 2012 sitting,

which happened to be in Miami. My firm, which is located in Miami, arranged and hosted an organizational meeting of lawyers who had filed cases against the NFL in advance of, and after, the JPML hearing. The purpose and result of the meeting was to facilitate tentative agreements on coordination and leadership among the majority of counsel representing former players. My firm shared with the assembled counsel its legal research and strategy, including a substantive memorandum containing our research on the NFL's primary defense of preemption under the Labor Management Relations Act ("LMRA").

- 6. Following the decision of the JPML to consolidate the proceedings in the United States District Court for the Eastern District of Pennsylvania (Brody, J.), our firm continued to play a lead role with respect to the voluntary organization of leadership among plaintiffs' counsel. We, along with other counsel, jointly filed motions proposing various positions and a structure of leadership, which this Court largely adopted with some minor modification.
- 7. Thereafter, we participated with Co-lead counsel regarding a proposed case management order. From that point on, we were one of very few firms who moved the case along which ultimately led to this historic settlement. My partner, Ricardo M. Martinez-Cid, and I were appointed to the Plaintiffs' Executive Committee and my partner Stephen F. Rosenthal was designated by Co-Lead Counsel to serve as one of the Co-Chairs of the Legal and Briefing Committee.
- 8. At the outset of the MDL, Mr. Rosenthal played an important role for the Plaintiffs' team. Between January and July 2012, the Legal and Briefing Committee prepared the Joint Prosecution Agreement, drafted the master complaints (ECF Nos. 83, 84, 2642), developed and implemented a strategy to protect existing plaintiffs and future plaintiffs from statute-of-limitations defenses, and coordinated the filing of short-form complaints by all

plaintiffs. Subsequently, Mr. Rosenthal performed substantial work in researching, drafting, and editing the response to the NFL Defendants' motion to dismiss on LMRA preemption grounds. He also participated in a moot argument for David Frederick, who handled the oral argument for the Plaintiffs on the pivotal motion to dismiss based on LMRA preemption.

- 9. During this same period, Mr. Martinez-Cid played an active role in the preparation for coordinated discovery efforts. As Co-Chair of the Discovery and Document Repository Committee, he coordinated efforts to obtain access to former players' records from the NFL, helped craft the plaintiffs' discovery plan, and along with his Co-Chairs, prepared discovery requests to be sent to the NFL.
- able to help lay the groundwork for the favorable outcome in this case by developing a communications and media plan that would place unrelenting pressure on the NFL by shedding light on its actionable practices. I was instrumental in this effect, which included educating former players and the public regarding the issues of this litigation and creating awareness of the risks of playing football that had been actively concealed by the NFL. I worked along with an outside consultant which the PEC/PSC engaged on messaging, talking points, media strategies and OpEds to reinforce the significance of this litigation and the risks involved at all levels. Many of our players, including in particular Kevin Turner, wanted to make sure there was public awareness of this problem. To that end, I am very proud of the work we accomplished together not only to advance the class but also to force changes at all levels of contact sports to make player participation safer. I daresay there are very few parents or coaches now who are not aware of the risks of concussions or repetitive head trauma. I am also very proud that I played a major role as to this issue.

- 11. I was also tasked with identifying players who could serve as spokespersons for the proposed class. This process involved going through medical records of hundreds of players and interviewing them to determine how well they would perform with the media. I ultimately identified many of the players who served in this capacity. The two main spokespersons were our clients, Kevin Turner and Shawn Wooden.
- 12. I traveled extensively with the class representatives and organized, along with outside consultants, countless interviews and media events.
- 13. I traveled to New York and Philadelphia on multiple occasions with Kevin Turner and Shawn Wooden and assisted with the preparation of talking points and primed them for questioning. Along with the two class representatives, I also did this with many other players, and their loved ones, including Herb Orvis, Chie Smith, and others. I also spearheaded identifying suitable players and in the preparation of the "Day in the Life" video that was prepared for potential use at the Final Fairness hearing. That professionally prepared video showed firsthand the devastating effects of multiple head trauma in the daily lives of these former players. My partners also assisted with some of these tasks, which formed part of the coordinated communications and media plan.
- 14. Our associate, Matthew Weinshall, assisted with the legal research on myriad issues bearing on our firm's participation in the case. Mr. Weinshall actively participated in virtually all aspects of the case by assisting me throughout with my many responsibilities, as detailed further below.
- 15. In addition to my continuing duties as Co-Chair of the Communications and Ethics Committee, I also served as one of four members of the Class Settlement Committee.

- 16. In September of 2012, Co-Lead Counsel were presented with an opportunity to engage in settlement discussions with the NFL. Thereupon, the PEC created a Class Settlement Committee, consisting of the two Co-Leads, myself, and Gene Locks. I respectfully believe that I played an important role in obtaining the settlement with the NFL. For example, I wrote the original Memorandum of Understanding ("MOU") which set out the basic framework of the settlement that this Court ultimately approved. In fact, the various categories and compensation amounts that I originally proposed were accepted by the NFL and approved by this Court. So too were the deductions for age and years played, which in large part derived from my firm's proposal. In addition, I drafted the original structure for the Baseline Assessment Program and medical treatment benefits program which, in large part, was also accepted by the NFL and ultimately approved by this Court.
- 17. After the initial draft of the MOU, it became apparent that we needed to engage various experts to ascertain the cost of these programs and the amount of money that would be necessary to assure that all former players could partake in these benefits. We also needed to engage experts in various medical disciplines regarding the means of diagnosing the players.
- 18. In this regard, I played almost an exclusive role working with the actuarial experts for months in order to determine how many players would likely suffer from one or more of the eligible disease groups. This analysis required review of literally hundreds of players' medical records, which I and my firm undertook, to develop reliable estimates of incident rates. We also needed to analyze the age of the population of players to determine the incident rate and age upon which they would likely receive a diagnosis. This work not only required a great deal of time evaluating player histories and extensive medical records but also reviewing historical and demographic information as to the likelihood that a player who actually had a compensable

condition would actually submit a claim. Additionally, I participated in meetings with expert, Grant L. Iverson, Ph.D., to develop the testing protocols and DSM injury definitions that would ultimately become part of the settlement agreement which this Court approved. This extensive review process had the additional benefit of revealing that many of the former players whose records we analyzed may actually have a compensable condition but had not yet received a diagnosis.

- 19. Although this process was complicated and time-intensive, we were nevertheless able to develop various charts with a number of assumptions to start pricing out the cost of the compensation part of the settlement.
- 20. The work with respect to the medical-benefit program side of the settlement was no less complex. It involved researching the geographical location of the former player population to determine whether proper care was in close proximity to their homes and the expected cost of that care. It required research as to the available medical facilities and the specialists that would be needed to provide proper diagnosis and, if needed, follow-up medical care.
- 21. After reaching a point where the Settlement Committee felt comfortable with its initial proposal, my colleagues on the Committee and I participated in face-to-face negotiations with the NFL. As a condition of these face-to-face discussions, the NFL required strict confidentiality which, of course, we took seriously and never breached.
- 22. During the negotiation process, I, along with my associate, Mr. Weinshall, reviewed drafts of various proposals, and continued to provide background research and comment as to the terms the settlement agreement which the Court ultimately approved.

- 23. Early in the settlement process it became apparent to the Committee that we would need class representatives to serve in what was determined to be two subclasses: symptomatic former players and asymptomatic former players. I was tasked with vetting the background and medical records of hundreds of former players to identify suitable class representatives. This task entailed investigating their backgrounds, interviewing family and friends, and conducting detailed research into their playing histories to make sure that they were adequate and proper class representatives.
- 24. As the Court is aware, the two class representatives whom the Committee selected were Kevin Turner, for the symptomatic class, and Shawn Wooden for the asymptomatic class. Both of these class representatives happened to be my firm's clients. Each served in his role with great effectiveness, poise, and distinction. In fact, there was never a serious question raised as to the adequacy of these class representatives. This fact demonstrates the extensive amount and quality of the work my firm did in identifying and getting those two star individuals to serve in those vitally important roles in this litigation.
- 25. After many months of negotiations, while the media was pounding the NFL on a daily basis with criticism for its handling of the concussion crisis, we reached a point where we came very close to a deal with the NFL. However, for a number reasons, we seemed to stall until the Court ultimately appointed Layne Phillips as Mediator, who took control of the discussions. Judge Phillips was brilliant, and over the next few months, he played a critical role in bridging what seemed to be an insurmountable gap between the parties.
- 26. After agreeing upon the material terms of a deal, a great number of details needed to be accomplished by both sides. The work on the actuarial side needed to be finalized, and experts needed to be retained to review and explain the key terms of the deal. Again, I played

the leading role in interfacing with the actuarial experts. As the Court is well aware, since it was instrumental in improving the settlement agreement by pushing for a virtually unprecedented uncapped fund, the issue of actuarial support became less important. Nevertheless, this work needed to be done to explain the basis for the settlement terms that had been proposed.

- 27. In addition, to support the medical aspects of the proposed settlement, medical experts needed to be retained. As the court may recall, two of those experts were Drs. Richard Hamilton and Kenneth Fisher, both of whom the Court quoted in its final order approving the settlement. I researched countless possible experts to serve as experts in the fields of Neurology and Neuro-psychology. I interviewed these physicians, who I came to know from prior cases, to ascertain if they were not only competent in these specific areas but were also willing to serve in an expert capacity. I explained in detail the terms of the proposed settlement agreement and all of the issues involved in the case. My time records probably do not fairly capture the amount of time I spent on this aspect of the settlement-approval process. The fact that the Court quoted their declarations in the final approval order evidences the quality of and value that their expert opinions brought to the case.
- 28. After the Court's final approval of the settlement, during the lengthy appellate process, Messrs. Rosenthal and Weinshall were periodically called upon to review, comment upon, and edit drafts of Class Counsel's appellate briefs, both in the Third Circuit and the United States Supreme Court.
- 29. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of common-benefit time spent by the attorneys and professional support staff at my firm who participated in, and billed at least fifty (50) hours for work done in, this Action, as well as the lodestar calculation for those individuals based on my firm's current billing rates. For

personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates of such personnel in their final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. We have excluded from that schedule the time expended in preparing this application for attorney's fees and expenses.

- 30. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as they charge for non-contingent work that is paid on an hourly basis. And the rates are comparable to those of attorneys with similar experience and reputations in the relevant legal market. Our rates have been accepted by other federal courts in class action cases prosecuted by my firm.
- 31. The total number of hours expended on the common benefit of this Action by my firm during the time period is 4,510.8 hours. The total lodestar for my firm for those ours is \$3,005,744.50, consisting of \$2,660,476.50 for attorneys' time and \$345,268.00 for professional support staff time.
- 32. We hereby voluntarily withdraw the following 9 hours which were previously reported. These hours are not included in the total number of hours stated in paragraph 31, above.

Timekeeper	Date	Task/Expense - Description	Amount
Lauren Littleton			
Barrington	4/10/12	Draft state court complaint	1.5
Lauren Littleton Barrington	4/11/12	Draft state court complaint and new federal laws	2.5
Darrington	7/11/12	rederal laws	2.5
Lauren Littleton		Meeting with SFR, re: state and federal	
Barrington	4/16/12	complaints. Draft state court complaint	1

Lauren Littleton		Draft federal court complaint for new	
Barrington	4/18/12	clients. Meeting with SFR re: same	4

- 33. My firm's lodestar figures are based solely upon my firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.
- 34. As detailed in Exhibit 2 hereto, my firm is seeking reimbursement of a total of \$771,127.79 in common-benefit expenses incurred in connection with the prosecution of this Action. These expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source material, and are an accurate record of the expenses incurred.
- 35. We hereby voluntarily withdraw reimbursement for the following \$3,367.64 expenses which were previously reported. These expenses are not included in the total number of expenses stated in paragraph 34, above.

Timekeeper	Date		Amount
	2/16/12	E97065- La Loggia/2-2-12- Lunch Meeting RAR/BRS	\$126.16
	2/16/12	E97065- La Loggia/2-8-12 Lunch Meeting SFR	\$20.36
S. Rosenthal	3/14/12	EA2994-S.Rosenthal-1/20/12	\$12.82
Steven Marks	6/26/12	EE8440- S.Marks NY 6-12	\$493.30
Steven Marks	6/26/12	EE8440- S.Marks NY 6-12	\$1,149.60
Steven Marks	6/28/12	EE8440- S.Marks NY 6-7-12	\$703.80
S. Rosenthal	7/18/12	EE7448-SFR/NY/7-5-12	\$861.60

TOTAL \$3,367.64

36. With respect to the standing of my firm to share in an award of fees, costs, and expenses, attached hereto as Exhibit 3 is a biography of my firm, including the attorneys in my firm who were principally involved in this Action.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 10th, 2017, at Miami, Florida.

Steven C. Marks, Esq. Fla. Bar No. 516414

PODHURST ORSECK, P.A.

SunTrust International Center One S.E. 3rd Avenue, Suite 2700

Miami, Florida 33131

 $(305)\ 358\text{-}2800\ /\ Fax\ (305)\ 358\text{-}2382$

Email: smarks@podhurst.com

EXHIBIT 1

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

PODHURST ORSECK, P.A.

LODESTAR REPORT

Inception through July 15, 2016

NAME	HOURS	HOURLY RATE	AMOUNT
PARTNERS:			
Steven C. Marks	2267.2	\$895.00	\$2,029,144.00
Stephen F. Rosenthal	398.4	\$695.00	\$282,795.50
Ricardo Martinez-Cid	109.5	\$695.00	\$76,102.50
ASSOCIATES:			
Matthew P. Weinshall	483.20	\$495.00	\$239,184.00
STAFF ATTORNEYS:			
Lauren M. Barrington	82.10	\$405.00	\$33,250.50
PARALEGALS:			
Gina Palacio, FRCP	1049.3	\$295.00	\$309,543.50
LAW CLERKS:			
Brad Sohn	121.10	\$295.00	\$35,724.50
TOTALS:	4510.8		\$3,005,744.50

EXHIBIT 2

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

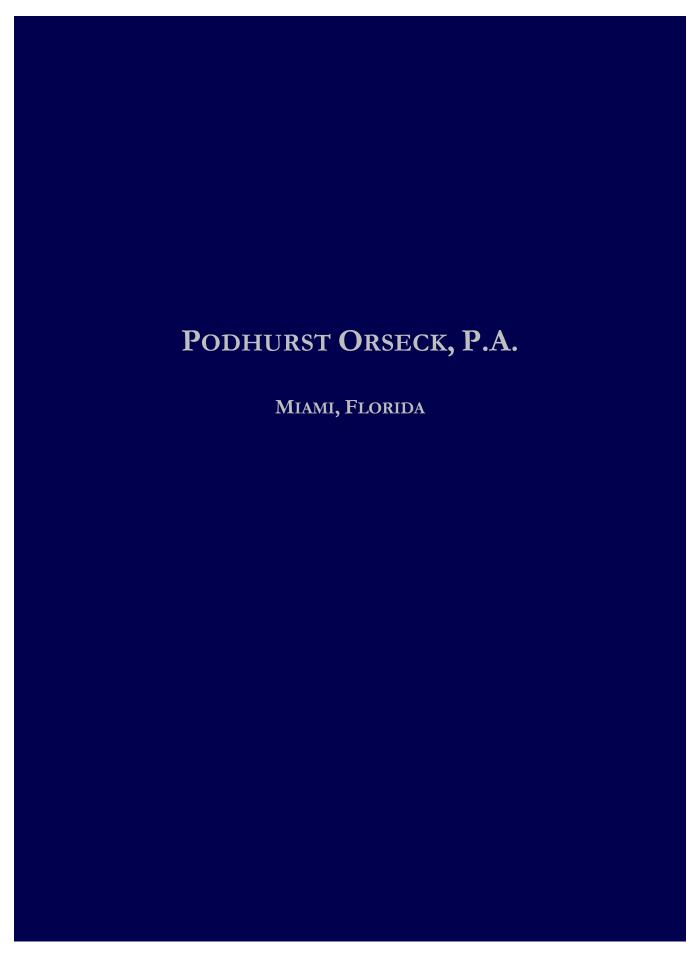
PODHURST ORSECK P.A.

COST AND EXPENSE REPORT

Inception through July 15, 2016

NUMBER	CATEGORY	AMOUNT
1	Assessments	625,000.00
2	Commercial Copies	0
3	Computerized Research	21,246.88
4	Court Reporters/Transcripts	0
5	Expert Services	1,000.00
6	Facsimile	7.75
7	Filing & Service Fees	0
8	In-House Copies	1,732.10
9	Long Distance Telephone	2,095.77
10	Postage/Express Delivery	2,121.33
11	Travel/Meals/Lodging	77,005.28
12	Miscellaneous	40,918.68
TOTAL EXPENSES		771,127.79

EXHIBIT 3



FIRM PROFILE

PRINCIPAL PRACTICE AREAS

Personal Injury and Wrongful Death Litigation
Aviation Litigation
Class Action
Commercial Litigation
General Tort Practice Concentrating in
Automobile Negligence, Product Liability and Medical Malpractice
Litigation
Criminal Litigation
Appellate Practice

ABOUT THE FIRM

Podhurst Orseck continues a legal practice, established in 1967, concentrating exclusively in trial and appellate litigation. The firm is dedicated to offering the highest caliber legal representation in both federal and state trial and appellate courts. The firm's general tort practice places a major emphasis upon aviation, automobile, products liability and medical malpractice litigation. In addition, the firm has a substantial practice in commercial and criminal litigation, as well as complex commercial tort litigation and class actions. From its inception, the firm has also cultivated an appellate practice, handling appeals of not only the firm's own trial lawyers, but also of other lawyers throughout the State of Florida, in the various state and federal appellate courts. The firm's practice serves clients and corporations throughout the United States, and in several foreign countries. Our firm has consistently received an AV-Rating from Martindale-Hubbell Law Directory, the highest possible rating, based on legal ability and general ethical standards.

STEVEN C. MARKS

Personal Injury and Wrongful Death Litigation
Class Actions
Product Liability
Aviation Litigation
Commercial Litigation

teven C. Marks holds a BA from the University of Florida (cum laude) and a JD from the University of Miami (cum laude), where he was editor-in-chief of the Law Review. He is an alumni editorial-board member of the University of Miami Law Review. Steve is admitted to the Florida Bar. He is a member of the Bar and Gavel Law Society and the Order of the Coif, and is on the Board of Directors of the University of Miami Law School Alumni Association (2003 to 2006). Steve is also an inaugural member of the University of Miami Law School Dean's Council and a member of the University of Miami Law Review Alumni Advisory Board.

He is a member of the Dade County Bar Association, American Bar Association (Aviation & Space Law Committee, Program Planning Committee for National Institute on Aviation Litigation, editorial board member, Torts and Insurance Practice Section and Tort and Insurance Law Journal Committee, and The Brief); The Florida Bar; Academy of Florida Trial Lawyers; The Association of Trial Lawyers of America (Aviation Law Section, Aviation Section); Dade County Trial Lawyers; Lawyer-Pilots Bar Association; American Board of Trial Advocates (Miami Chapter); Fellow, Litigation Counsel of America, Trial Lawyers Honorary Society, and the Inns of Court.

Steve was recently appointed to the Legal Advisory Committee for the International Civil Aeronautical Organization.

He is listed in Florida Trend's "Florida Legal Elite," (2009, 2013); Florida Super Lawyers, 2006-2016; Lawdragon 500 Leading Litigators "New Star" 2006 and 2007; South Florida Legal Guide, Top Lawyers, 2007-2016; The Expert Guide to the World's Leading Aviation Lawyers, 2008-2016; Best Lawyers in America 2007-2016; Chamber's USA's Guide to Leading Lawyers for Business (2008-2010, 2014-2015) and named in the Daily Business Review's Most Effective Lawyers 2010.

Steve focuses on personal injury and wrongful death litigation, product liability, aviation litigation, commercial litigation, class actions, medical malpractice, premise liability, and admiralty.

He has acted as lead counsel, appointed court counsel and/or counsel representing victims in a number of commercial class actions and major airline crashes, including: NFL Concussion Litigation Executive Committee Member and colead settlement class counsel, 2014; acting as lead Plaintiffs' counsel in the American Airlines Flight 331, crash in Jamaica, 2010; acting as co—lead trial counsel for the California State Court plaintiffs' after a Silk Air crash between Jakarta and Singapore in 1997; acting as lead liaison counsel for the State Court and Federal multi—district litigation (MDL) plaintiffs' steering committees over the ValuJet Flt.

592 crash, Everglades, 1996, and acting as a member of the MDL plaintiff's steering committee for the Arrow Air military charter crash, Newfoundland, 1985.

General and major commercial airline crashes he has handled include: Metrojet Flt. 9268, from Egypt, en route to Saint Petersburg, Russian, 2015; Germanwings Flt. 9525, from Barcelona, Spain to Dusseldorf, Germany; 2015; Malaysian Airlines, Flt. MH370, from Kuala Lumpur to Beijing, 2014; Gulfstream IV, crash on take-off, Bedford, Massachusetts, 2014; IBC Airways, La Alianza, Puerto Rico, 2013; Dana Air, Flt. 992, Abuja, Nigeria, 2012; Central American Airways Flight 731, Tegucigalpa, Honduras, 2011; Conviasa Airlines, Flt. 2350, Bolivar, Venezuela, 2010; Aires Airlines Flt. 8250, San Andres Island, Colombia, 2010; Ethiopian Airlines Flt. 409, Mediterranean Sea, 2010; American Airlines Flt. 331, Kingston, Jamaica, 2009; Air France Flt. 447, Atlantic Ocean, 2009; Colgan Air – Continental, Flt. 3407, Buffalo, New York, 2009; Aeroflot-Nord, Flt. 821, Perm Airport, Russia, 2008; SpanAir, Flt. 5022, Barajas Airport, Spain, 2008; TACA Airlines, Flt. 390, Tegucigalpa, Honduras, 2008; Santa Barbara Airlines, S.A., Flt. 518, near Merida, Venezuela (2008); TAM Airlines, Flt. 3054, Congonhas Airport, Sao Paulo, Brazil, 2007; Comair, Flt. 5191, crash on takeoff from Lexington, Kentucky, 2006; Sibir Airlines Flt. 778 from Moscow Russia, 2006; GOL Airlines, Flt. 1907, mid-air collision in the Amazon, Brazil (2006); Chalk's Ocean Airways Flt. 101 air disaster, Miami, Fl, 2005; Helios Airways air disaster near Cyprus, 2005; Tropical Air, LET 410, Cap Haitian, Haiti, 2003; mid-air collision over German airspace involving Bashkirian Airlines Flt. 2937 and DHL Flt. 611, 2002; American Airlines, Flt. 587, crash in Belle Harbor, Queens, N.Y., 2001; Papillon Airways, Inc. Eurocopter AS350-B2 helicopter in the Grand Canyon, AZ, 2001; Scandinavian Airlines at Linate Airport, Milan, Italy, 2001; Air France Concorde tragedy 2000; Bell Helicopter BH 407 in Brazil, 1999; Cubana Air, Flt. 3010, YAK-42, Valencia, Venezuela, 1999; TAESA Airlines Flt. 725 from Uruapan, Michoacán, Mexico, 1999; Hot Air Expeditions, near Cave Creek, AZ, 1999; Occidental Petroleum's chartered Boeing 737 in Peru's northern jungle, 1998; American Airlines, Flt. 1420, Little Rock, Arkansas, 1999; TAME Flight 422 near Bogota, Colombia, 1998; Swissair, Flt. 111, Atlantic Ocean near Hailfax, Nova Scotia, 1998; Silk Air, Flt. MI185, Palembang, Indonesia, 1997; Fine Air, Flt. 101, Miami, Fl, 1997; Bell 407 helicopter in the Andros Islands, 1996; Millon Air Flt. 406 en route to Miami, Florida from Manta, Ecuador, 1996; ValuJet, Flt. 592, Florida Everglades, 1996; Aero-Peru Flt. 603 en route to Santiago, Chile from Lima, Peru, 1996; Aviation Development Corp. Airlines, Nigeria, 1996; Tarom Airlines, Flt. R0371, Bucharest, Romania, 1995; El Al cargo, Amsterdam, Holland, 1992; Surinam Airways Flt. PY764 in Paramaribo, Surinam, 1989; Grand Canyon Airlines, Grand Canyon National Park Airport, AZ, 1989; and Independent Air Flt. 1851, Bergamo, Italy, 1989 and Arrow Air Flight 1285, Gander, Canada.

He also acts as lead trial counsel for countless victims of general aviation and military accidents, many involving foreign claimants, ranging from air balloons, flight training, ground school, air ambulances, banner planes, aerobatics, helicopters, and propeller, turbo-prop and jet-powered aircraft, including, but not limited to, Cessnas, Cirrus, Beechcraft, Pipers, Bellancas, Lear Jets, Citation Jets, Bell Helicopters, Sikorsky Helicopters, Robinson Helicopters, Aerospatiale Helicopters and countless

other aviation manufacturers, operators, maintenance facilities and private & public air traffic control centers.

In addition to his aviation, general personal injury and wrongful death practice, he also counsels foreign governments, including the Russian Federation, the Republic of Venezuela, Ecuador, Belize, Honduras and numerous Brazilian states.

Among his many speaking engagements have been:

- An Introduction to the Foreign Sovereign Immunities Act," invited guest lecturer, Embry-Riddle 2001. Also an invited lecturer on the Embry-Riddle Aviation Program 2006;
- "Recent Developments in Aviation Law," ABA Litigation in Aviation Seminar 1991 (co-author);
- Masters of the Courtroom Seminar, Dade County Trial Lawyers, 2002 and the Dade County Trial Masters Program, 2002-2003;
- Forum Non-Conveniens panel member and co-chair, ABA Aviation & Space Law Convention Tort Trial and Insurance Practice Section Conference 2003;
- ABA Panel on Forum Non-Conveniens, "An Update of Recent Decisions and An Analysis of the Legal Criteria," 2003;
- Discovery in Aviation cases, ABA Conference, Washington DC 2004, invited lecturer;
- ATLA Aviation Section Program, Chicago, Program Chair;
- Miami-Dade County Bar Association Young Lawyer Section's First Annual "SuperLawyer Mock Trial Demonstration Seminar 2006";
- "A Discussion on the Basics of Litigating the Foreign Crash", ABA Aviation & Space Law Convention 2006;
- ABA Conference, Washington, D.C., October 2007 session on Aviation and Space Law Litigation, lectured on "Foreign Accidents--U.S. Defendants Frequently Argue Forum Non-Conveniens Motions; How are they Doing?";
- National Association of Legal Investigators, Inc., Mid-Winter Conference, Ft. Lauderdale, FL, January 2008;
- Embry Riddle Aeronautical University's 19th Annual Aviation Law and Insurance Symposium, lectured on "Handling Foreign Crash Litigation in the U.S. and Abroad";
- American Association for Justice, Annual Convention in Philadelphia, lectured on "The Fundamentals of Obtaining a Just or Full Compensation Aviation Jury Verdict", July 2008;
- Speaker at the Conference of the International Bar Association, Vancouver, Canada, October 2010;
- McGill Conference on International Aviation Liability and Insurance, Moot Court Panels, Legal Argument, Forum non-conveniens and Mediation, Montreal, Canada, May 2011.

- 5th Annual McGill Conference on International Aviation Liability and Insurance, Moot Court Panels, Legal Argument, Forum non-conveniens and Mediation, Montreal, Canada, October 2013.
- Florida Justice Association, Workhorse Seminar; Into the Wild Blue Yonder: Exploring New Frontiers in Aviation Litigation, February 2014
- FIU Law Legal Seminar (LATAM) December 3, 2014
- Embry Riddle Aeronautical University / Aviation Law & Insurance Symposium in Orlando - January 28-30, 2015
- FIU Aviation and Space Law Symposium in Miami February 20, 2015
- 8th Annual McGil Conference on Aviation Liability and Insurance Conference, Complexity of International Aviation Litigation Against Multiple Tortfeasors, April 17-18, 2015
- 21st Annual ABA Conference, Annual National Institute on Aviation Litigation, New York City, June 4, 2015
- South Florida Trial Bar Superstars Mock Trial and Expert Jury Selection, February 12, 2016
- December 2, 2016, Panelist at Miami Law Class Action & Complex Litigation Forum on the discussion of Settlement and Resolution of Class Action litigation, discussing mediation, confirmation discovery, objectors, attorneys' fees and notice issues.

Steve has made several guest appearances on CNN News, Wall Street Live News and CBC Sky News. Steve is also the co-author, "Recent Developments in Aviation Law," ABA Litigation in Aviation Seminar, 1991. Author, "The Admissibility and Use of Demonstrative Aids," ABA, The Brief Tort Trial & Insurance Practice Section, Vol. 32, No. 4, Summer 2003; "Handling Foreign Aviation Cases in the United States"; ABA Publication entitled "Litigating the Aviation Case from Pre-trial to Closing Argument," Third Edition, 2008. Author, "The Admissibility and Use of Demonstrative Aids," ABA, The Brief (2003); and "Handling Foreign Aviation Cases in the United States", ABA Publication entitled "Litigating the Aviation Case from Pre-trial to Closing Argument", Third Edition, 2008.

STEPHEN F. ROSENTHAL

Appellate Practice
Personal Injury and Wrongful Death Litigation
Class Actions
Aviation Litigation
Product Liability
Commercial Litigation
Constitutional and Election Law

tephen focuses on complex litigation and appeals. He has tried cases to verdict in state and federal courts and has argued nearly 40 appeals in state and federal appellate courts across the country. His practice spans class actions, aviation accidents, personal injury, commercial disputes, professional malpractice, and whistle blower claims.

His abilities have been recognized in numerous publications. Benchmark Appellate has observed that Stephen "possesses the rare skill set allowing him to excel at both trial and appellate litigation." Other national publications have praised his "sharp intellect" and "extremely creative legal analysis skills," listing him among the best lawyers in the country in the categories of appellate and personal injury litigation. Stephen is also an experienced hand at election litigation. He was appointed by the President's re-election campaign to serve as State Counsel for Florida, a general counsel-like position where he developed legal strategy and oversaw 4,500 volunteer lawyers in voter-protection efforts. He played a similar role in the 2010 gubernatorial and 2008 presidential elections. He has advised numerous candidates on legal issues affecting campaigns.

He joined the firm in 2001 and has been a partner since 2005. Prior to entering private practice, he worked at the Department of Justice in Washington, defending federal programs and agencies. He had the honor of serving as a law clerk to Judges Rosemary Barkett on the U.S. Court of Appeals for the Eleventh Circuit and Mark Wolf of the U.S. District Court for the District of Massachusetts. He is a graduate of Harvard Law School (J.D., cum laude, 1996) and of Harvard College (A.B., magna cum laude, 1992), and spent the year after college in England as a Rotary Foundation Ambassadorial Scholar.

He was appointed in 2009 by the judges of the -U.S. Court of Appeals for the Eleventh Circuit as one of six lawyers in Florida on its Lawyers Advisory Committee. Stephen is an active member of his community. He serves on the Steering Committee of the fund-raising arm of Legal Services of Greater Miami, Inc., is active in leadership at Temple Judea of Coral Gables, and has previously served as Chairman of the Board of the American Constitution Society, South Florida Chapter, and was on the Board of Directors of the Florida Justice Association. He is a member of the Leadership Florida Class of 2007.

He has lectured on a wide range of topics, including appellate practice, class action law, Florida's Unfair and Deceptive Trade Practices Act, attorney's fees in wrongful death cases, and the treatment of worker's compensation liens in wrongful death cases, and has published work on the law of religious freedom under the First Amendment. He speaks Spanish and has previously worked in Spain and Central America.

RICARDO M. MARTINEZ-CID

Personal Injury and Wrongful Death Litigation
Product Liability
Aviation Litigation
Commercial Litigation

Ricardo M. Martinez-Cid is a partner at Podhurst Orseck, P.A., in Miami. He earned his undergraduate degree in only three years at the University of Miami (B.A. cum laude 1997) and his Juris Doctorate at Yale Law School (J.D. 2000) where he was the William S. Beinecke Scholar. While a law student, Ricardo was a director at Yale's renowned clinical program. He served on the Board of Directors of the Latino Law Students Association, and was an editor of the Yale Journal of International Law. Before joining the firm, Ricardo served as a law clerk to the Honorable James Lawrence King on the United States District Court for the Southern District of Florida. He joined the firm in 2002 and was named a partner in 2005.

Ricardo is an accomplished trial lawyer, having obtained multi-million dollar verdicts on behalf of his clients in both federal and state courts. He has been named "Legal Elite" by Florida Trend Magazine, "Top Lawyer" by both Expert Guides and the South Florida Legal Guide, and is listed in The Best Lawyers in America. According to the National Law Journal, his verdict of over 195 million dollars in the Fondo Vision matter was one of the ten largest jury verdicts of 2010. On multiple years, The Daily Business Review has recognized him at its Most Effective Lawyers' event.

Although Ricardo handles select commercial matters, much of his practice involves personal injury, wrongful death, and product liability cases with a focus on mass torts and aviation litigation. He is experienced in Multi-District Litigation and currently serves on the Plaintiffs' Executive Committee for the NFL Concussion Litigation.

Ricardo is Board Certified in Aviation Law, thereby accrediting him as an expert within the field of practice. According to the Florida Bar, certification is its highest level of evaluation of competency and experience within an area of law, as well as professionalism and ethics in practice. In addition to handling general aviation cases involving fixed-wing and rotary aircraft, Ricardo regularly represents victims of commercial aviation disasters. He has been appointed lead counsel or otherwise taken a leadership role in many of these cases, including American Airlines Flight 331, Jamaica (2009); SpanAir Flight 5022, Spain (2008); TACA Airlines, Flight 390, Honduras (2008); Santa Barbara Airlines, S.A., Flight 518, Venezuela (2008); TAM Airlines, Flight 3054, Brazil (2007); GOL Flight 1906, Brazil (2006); Comair Flight 5191, Lexington, Kentucky (2006); Chalk's Ocean Airways Flight 101, Miami Beach, Florida (2005); Helios Airways Flight 2U522, Cyprus (2005); Tropical Air Flight 1301, Haiti (2003); Scandinavian Airlines Flight 686, Milan, Italy (2001); TAESA Airlines Flight 725, Mexico (1999); and Silk Air Flight MI 185, between Jakarta and Singapore (1997).

Ricardo was appointed by the Florida Supreme Court to serve on the Standing Committee on Fairness and Diversity and by the Chief Justice to serve on his Pro Bono Advisory Committee. He is Co-Chair of the Aviation and Space Law Committee of the American Bar Association, a Past Chair of the Aviation Law Section of the American Association for Justice, the Immediate Past President of the Cuban American Bar Association, and he serves on the Board of Governors of the American Association of Justice and of the Florida Justice Association.

Ricardo has authored and published work for the American Bar Association, Westlaw Journal, and the American Association for Justice. He is a frequent lecturer on aviation law and general trial tactics. The many venues he has been invited to speak at include American Bar Association programs in New York and Washington, D.C.; the Southern Methodist University Air Law Symposium in Dallas; the PEOPIL/McGill University Conference on Aviation Law and Insurance in Amsterdam; the Embry-Riddle University Aviation Law and Insurance Symposium in Orlando, and AviCon Conferences in London and New York City. He has also served on the faculty of the Al J. Cone Trial Advocacy Institute.

He is fluent in English, Spanish and Portuguese.

MATTHEW P. WEINSHALL

atthew is an honors graduate of Harvard College (A.B. cum laude 2002) and of the University of Miami School of Law (J.D. summa cum laude 2010), where he was an editor of the University of Miami Law Review. Prior to law school, Matt worked as an equities trader for three years and as a foreign exchange trader for two years. After law school, Matt served as a law clerk to Judge Rosemary Barkett of the U.S. Court of Appeals for the Eleventh Circuit.

Matt is admitted to the Florida Bar and focuses his practice on complex commercial litigation and class actions.

EXHIBIT G

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

DECLARATION OF SOL H. WEISS, ESQUIRE IN SUPPORT OF CO-LEAD CLASS COUNSEL'S PETITION FOR AN AWARD OF ATTORNEY'S FEES AND REIMBURSEMENT OF COSTS AND EXPENSES

Sol H. Weiss, Esquire declares as follows pursuant to 28 U.S.C. § 1746:

1. I am President of Anapol Weiss. I submit this declaration in support of Co-Lead Class Counsel's Petition for an Award of Attorney's Fees and Reimbursement of Costs and Expenses in connection with and for services rendered and expenses incurred for the common benefit of the Settlement Class in the above-captioned multidistrict litigation ("Action") from the inception of January 27, 2012 through July 15, 2016, as well as for the payment of expenses

incurred therewith. I have personal knowledge of the matters set forth in this declaration and, if called upon, I could and would testify competently thereto.

2. Sol H. Weiss, Esquire of Anapol Weiss was appointed as Co-Lead Counsel by the Court for this litigation. I contributed to the organization of the Plaintiffs' Steering Committee (PSC) and Plaintiffs' Executive Committee (PEC). I organized meetings and initiated communication (conference calls and emails) among PSC and PEC members. I was instrumental in creating and participated in the Public Relations and Legal Committees. On public relations, I interviewed and retained the PR Firm. I helped shape the PR campaign that featured retired players and their families rather than lawyers. Within six months, the initial public perception that football players make a lot of money and should not sue the NFL changed. In an ESPN Poll, 70% of respondents believed retired players were justified in filing lawsuits for closed head injuries. Public opinion in support of retired players was a factor that added pressure and leverage in forcing the NFL to eventually settle the case. I prepared and revised Tolling Agreements which assisted 5,000 players to file suit against the NFL. I participated in live conferences and telephonic conferences with the Honorable Anita Brody of the United States District Court for the Eastern District of Pennsylvania on a broad range of issues. I was instrumental in engaging David Frederick on the seminal pretrial issue - preemption. I worked with Mr. Frederick throughout the preemption issue, including mock oral arguments. I attended many settlement meetings and mediations with the NFL. I, along with David Buchanan and Larry Coben, negotiated the eventual battery of tests used for the Baseline Assessment Program. This included the scoring protocols. I met with plaintiffs' neuropsychological experts as well as the NFL's experts. I reviewed and suggested changes to each draft of the various Settlement

Agreements. I, along with Larry Coben, met with and prepared scientists and physicians who submitted Declarations on CTE issues and neurocognitive disorders.

Larry E. Coben of Anapol Weiss was appointed to the Executive Committee. Mr. Coben retained a number of well credentialed scientists and doctors who consulted with plaintiffs' counsel on causation issues and liability. Mr. Coben spent considerable time meeting with and preparing experts who submitted extensive Declarations. Mr. Coben retained Grant Iverson, a leading neuropsychologist who provided invaluable guidance on the use of neuropsychological tests to measure neurocognitive losses.

- 3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of common benefit time spent by the attorneys and professional support staff of my firm who were involved in, and billed fifty or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates of such personnel in their final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended in preparing this application for attorney's fees and expenses has been excluded.
- 4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in other contingent matters.
- 5. The total number of hours expended on the common benefit of this Action by my firm during the time period is 4,241.22 hours. The total lodestar for my firm for those hours is \$1,857,436.00, consisting of \$1,533,140.00 for attorneys' time and \$324,296.00 for professional support staff time.

- 6. My firm's lodestar figures are based solely upon my firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.
- 7. As detailed in Exhibit 2 hereto, my firm is seeking reimbursement of a total of \$1,031,971.55 in common benefit expenses incurred in connection with the prosecution of this Action. These expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source material, and are an accurate record of the expenses incurred.
- 8. With respect to the standing of my firm to share in an award of fees, costs, and expenses, attached hereto as Exhibit 3 is a biography of my firm, including the attorneys in my firm who were principally involved in this Action.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 5, 2017, at Philadelphia, Pennsylvania.

SOL H. WEISS, ESQUIRE

EXHIBIT 1

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

ANAPOL WEISS

LODESTAR REPORT

Inception through July 15, 2016

NAME	HOURS	HOURLY RATE	AMOUNT
PARTNERS:			
Sol H. Weiss	1,420.30	\$650.00	\$923,195.00
Lawrence E. Coben	916.80	\$650.00	\$595,920.00
ASSOCIATES:			
Julie P. Thompson	51.00	\$275.00	\$14,025.00
STAFF			
ATTORNEYS:			
CONTRACT			
ATTORNEYS:			
			4
ΙΤ			
Ann Marie Hinkel	1,137.00	\$175.00	\$198,975.00
PARALEGALS:			
Ted Pepin	81.15	\$175.00	\$14,201.25
Maria Borrajo	64.32	\$175.00	\$11,256.00
Dillon Fisher-Ives	89.75	\$175.00	\$15,706.25
Bonnie Bozarth	480.90	\$175.00	\$84,157.50
TOTALS:	4,241.22		\$1,857,436.00

EXHIBIT 2

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

ANAPOL WEISS

COST AND EXPENSE REPORT

Inception through July 15, 2016

NUMBER	CATEGORY	AMOUNT
1	Assessments	530,000.00
2	Commercial Copies	233.25
3	Computerized Research	440.24
4	Court Reporters/Transcripts	261.15
5	Expert Services	372,140.51
6	Facsimile	17.00
7	Filing & Service Fees	52.22
8	In-House Copies	3,298.00
9	Long Distance Telephone	9,878.26
10	Postage/Express Delivery	448.81
11	Travel/Meals/Lodging	114,299.19
12	Miscellaneous	902.92
TOTAL EXPENSES		1,031,971.55

EXHIBIT 3

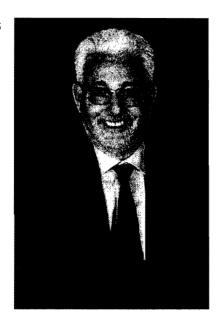
Sol H. Weiss, Esquire

Sol H. Weiss is a shareholder of Anapol Weiss. He concentrates his practice in complex civil litigation including class actions and pharmaceutical cases, medical and other professional malpractice, securities litigation and products liability matters.

Leadership Roles

Sol has played crucial roles in national lawsuits including the National Football League Players' Concussion Injury Litigation, in which he serves as Co-Lead Counsel.

Mr. Weiss is among Lead Class Counsel in the Kids for Cash civil rights litigation and has negotiated combined settlements of \$27.75 million for the juvenile victims. He has also been appointed as Liaison Counsel in numerous state court mass tort consolidated litigations.



Mr. Weiss has served in various positions for the Pennsylvania Association for Justice and was a member of the Board of the Philadelphia Trial Lawyers Association. He served on the Executive Committee of the American Association of Justice (AAJ) for five years and still serves on its Board of Governors.

Sol has served in various positions for the Pennsylvania Association for Justice and was a member of the Board of the Philadelphia Trial Lawyers Association. He is also a past President of the Eastern Pennsylvania Chapter of the American Board of Trial Advocates.

Sol is an active member of the Board of Consultors of the Villanova University School of Law. He also served as Director of the Linda Creed Breast Cancer Foundation.

Professional Recognition

Sol was voted 2014 Lawyer of the Year in the category of Mass Tort and Class Action Litigation by Philadelphia's Best Lawyers®. He has been selected for inclusion in The Best Lawyers in America® every year since 2006, and he was featured on the cover of the 2011 edition of Philadelphia's Best Lawyers®.

Mr. Weiss has been named among the Top 100 Pennsylvania Lawyers and Top 100 Philadelphia Lawyers by Super Lawyers every year since 2010, and he has been included in Pennsylvania Super Lawyers® since 2004.

In 2009, Sol received the AAJ Harry M. Philo award as the Association's outstanding trial lawyer for his work on limiting Federal Preemption. He also received the prestigious David S. Shrager President's Award in 2011 for extraordinary service to the Association.

In 2016, Sol received the Lifetime Achievement Award presented by The Legal Intelligencer. This award honors attorneys who have helped shape the law in Pennsylvania and who have had a distinct impact on the legal profession in Pennsylvania.

In 2016, Sol was also welcomed as a member of The Fellows of the American Bar Association. This organization's mission is to serve the legal profession and the public through groundbreaking research, publications and programs that advance justice, the understanding of law and its impact on society.

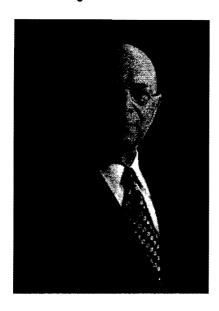
Education and Background

Mr. Weiss earned his bachelor's degree from the Pennsylvania State University in 1968, and he earned his law degree from Villanova University School of Law in 1972. He is licensed to practice in Pennsylvania and is specially admitted to practice in other states.

Lectures and Publications

Sol frequently lectures about class actions, pharmaceutical liability, civil litigation issues, trial skills and technology in the courtroom.

Larry E. Coben



Bar Admissions

State Bar of Arizona and Federal District Court - 1994

State Bar of Pennsylvania, U.S. District Court and Court of Appeals, Third Circuit. - 1973

U.S. Supreme Court, the 1st, 4th, 5th, 10th, and 11th U.S. Circuit Courts of Appeal, and *Pro Hac Vice* in State courts such as: Texas, Mississippi, Massachusetts, Arizona, Illinois, Tennessee, Vermont, New Mexico, Florida, Delaware, Georgia, Ohio, Hawaii, Maine, New York, Nevada, Virginia, Michigan and Utah

Education

Cumberland School of Law of Samford University - J.D., cum laude (1973)

Athens College - B.A. (1968)

Professional Memberships and Associations

Attorneys Information Exchange Group—Chief Legal Officer

Pennsylvania DOT Autonomous Vehicle Task Force

Arizona State Bar Association

Maricopa County Bar Association

American Bar Association

- Member Publications Editorial Board (1999 Present)
- Vice Chair Trial Techniques Committee (1995-98)
- Vice Chair of Tort and Insurance Practice Section (1996-97)
- Vice Chair Medicine and Law
- CLE Board
- Emerging Issues Committee (1994-95)
- Committee on Solo and Small Firm Practitioners (1994-95)

Policy Committee of the Institute for Injury Reduction - Chairman (1991-93)

Pennsylvania Trial Lawyers Association

Arizona Trial Lawyers Association - Board of Directors (1999-Present)

Western Trial Lawyers Association - Board of Directors (2002-Present)

The Association of Trial Lawyers of America

Attorneys Information Exchange Group (AIEG) on Crashworthiness

- Founding member
- Executive Committee member

American National Standards Institute Z90 Committee

• Chairman of Labeling Sub-Committee (1988-94)

Society of Automotive Engineers (1997-Present)

Institute for Injury Reduction (IIR)

- Founding member
- Chairman of the Board (1988-91)

Tort and Insurance Law Journal for Medicine and Law Committee (1988-89)

Medico-Legal Committee of Pennsylvania Bar Association (1987-88)

Observer to the Drafting Committee on a Uniform Interstate Depositions and Discovery of Documents Act.

Noteworthy Cases as Lead Counsel

Pursell v. Volkswagen, Court of Common Pleas, Bucks County Pennsylvania., February 2008. [\$10.2 million dollar verdict against Volkswagen in a products liability case for a design defect lack of an anti-submarining ramp for the rear center seated occupant].

Harris v. Ford Motor Company, N.J. Super. Ct., September 2002. [\$8.8 million dollar verdict against an auto manufacturer for an injured person in a products liability case stemming from a roll over accident].

Walker v. Schutt Sports Sales Group, Gayson Ct., April 2000. [Largest known verdict (\$12 million dollars) against a football helmet company - without any setoff - regarding spinal cord injury.]

Buongiovanni v. General Motors Corporation, Pa. Ct. Common Pleas, 1998. [At the time, it was the largest verdict for an injured person in a products liability case in the State of Pennsylvania.]

Yarusso v. Bell Helmets, Delaware Super. Ct., 1998. [First known verdict against motorcycle helmet manufacturer regarding helmet shock attenuation design and spinal cord injury.]

Munro v. Galati and General Motors Corporation, Arizona Supreme Court - No Federal Preemption of "No Air Bag Claim" (938P.2d 1114 (1997)).

Peisino v. Riddell Corporation, Delaware Super. Ct., 1992. [First known verdict in the nation for a football player who suffered a spinal cord injury due to helmet design/shock attenuation.]

Easterling v. NFL, E.D. Pa. 2011. [First National Class Action for Concussion related neurocognitive disabilities filed against the NFL. Member of the Plaintiffs' Steering Committee and co-director of legal and expert analysis committees.]

Textbooks

Crashworthiness Litigation 2d, American Association for Justice (AAJ), 2008.

Crashworthiness Litigation, ATLA Press, 1998.

Products Liability Litigation: Product Studies - Chapters on Crashworthiness, Frontal; Restraint Systems, Seat Belts; Litigation and Preemption. Clark, Boardman and Callaghan, 1996.

Pennsylvania Products Liability Guide. Bisel, February 1993.

Crashworthiness, ATLA Anthology Series, 1989.

Automobile Crashworthiness - Side Impact Accident, <u>American Jurisprudence Proof of Facts 3d Series</u>, 1989.

Articles Published

Autonomous Vehicles—Collision Avoidance Technology: Making It Easier and Safer: How Should The Civil Justice System Respond?, Legal Intelligencer, Philadelphia, PA, 2016

Autonomous Vehicles: Where Morality Meets Machinery, Legal Intelligencer, Philadelphia, PA. Sept. 2016.

Product Defects: Selling Products Without Optional Safety Equipment, Legal Intelligencer, June, 2016, Philadelphia, Pa.

Pennsylvania Products Liability: Instructing the Jury, Philadelphia Trial Lawyers Association VERDICT, Special Edition, January 2015.

Pennsylvania Products Liability: Tincher v. Omega Flex, Inc., Back to the Future—Where are We Now and Where Will We Go? Parts I and II, Legal Intelligencer Philadelphia, Pa. December 2014 and January 2015.

Highway Design and Maintenance Hazards, AIEG Voice, Winter 2014

Pennsylvania's Approach to Joint and Several Liability: Statutory Changes and How They Affect Liability of Multiple Defendants, Legal Intelligencer, Philadelphia, Pa., August 2014

Liability for Failing to Properly Recall a Defective Product, Legal Intelligencer, June 2014

Litigating Professional Malpractice, Arizona Advocate, April 2014

Concussion in Sports: Identification and Treatment, AAJ publication 2014

Ethics for Trial Lawyers: Where do Ethics Begin and End? What About Full Disclosure? AIEG publication January 2014

Seatbelts and Buses: Together or Not? AAJ publication, December 2013

Football Helmets, Why Are There so Many Head Injuries in Football? Can Helmets Protect Against Concussion and Brain Injury? Legal Intelligencer, Philadelphia Pa., Fall 2013

What is the Fairest and Fullest Method of Evaluation Future Economic Losses? Arizona Advocate, Fall 2012 and Legal Intelligencer, Philadelphia, Pa. December 2012

Arizona Consumers and Business Leaders Alike Should Consider Effective Ways to Obtain Justice Vis-à-vis Class Action Litigation, Arizona Advocate, May 2012

Who Should Prevail In the Battle Over the Right to Alter The Face of Tort Liability: the Courts or The Legislature? The Legal Intelligencer, Philadelphia, PA, January 2012

Rollover Accidents: Why Motor Vehicles Rollover and Why Motorists Suffer Catastrophic Injury? Legal Intelligencer, Philadelphia, Pa., Fall 2011

Expert Testimony: Arizona's New Rule-Trial Judges, Gatekeeper or Executioner, Fall 2011

Recreational Helmets: Design Defects Producing Head and Neck Injuries, AIEG Summer 2011

Should a Product Manufacturer Be Held Liable for Failing to Recall a Product Learned to be Defective? Arizona Advocate, Fall 2010

Why Motor Vehicle Design Choices Remain a Primary Cause of Catastrophic Injury and Fatality, Legal Intelligencer Philadelphia, PA, August 2010

In Personal Injury Cases, Instructing Juries On Loss of Life's Pleasures: IT'S THE RIGHT THING TO DO, AZTLA Advocate, March 2008.

Evidentiary and Substantive Issues in Products Liability Cases, AzTLA Advocate, April 2007.

Instructing Juries on Loss of Life's Pleasures; It's the Right Thing To Do, Arizona Attorney, April 2006.

Debunking the Malibu Myth and How to Try a Roof Crush Case and Win, Western Trial Lawyers, June 2005.

Contingency Fees: If It's Not Broken, Why Fix It?, Arizona Attorney, August 2004.

Conspiracy of Silence: Hidden Seat Back Hazards, TRIAL, March 2004.

If a Product is Defective, Why Must it Also Be "Unreasonably Dangerous?, <u>AzTLA Advocate</u>, March 2004Defeating the Federal Preemption Defense in Product Liability Cases, <u>American Association for Justice</u>, Spring 2007...

On-Road Rollover Hazards: Why Do Vehicles Roll Over?, AzTLA Advocate, January 2004.

Children in Seat Belts in Crashes, AzTLA Advocate, May 2003.

Helmet Protection: Why Not More?, Proceedings of the 2002 SAE Motorsports Engineering Conference and Exhibition (pg. 649-653), December 2002.

Why are Americans at Grave Risk of Catastrophic Injury in Rollover Accidents?, Andrews Automotive Litigation Reporter, December 2002.

I Was Wearing My Seat Belt - Honestly! How to Prove That Your Client was Belted, <u>AzTLA Advocate</u>, September 2002.

A Products Liability Defendant Cannot Obtain Apportionment of Fault When the Only Other 'Party At Fault' is the Product, <u>AzTLA Advocate</u>, May 2002.

What is the Fairest and Fullest Method of Evaluating Future Economic Losses in Personal Injury and Wrongful Death Actions in Arizona? AzTLA Advocate, December 2001.

The Anatomy of a Frontal Crashworthiness Case, <u>AzTLA Advocate</u>, September 2001. The Anatomy of a Frontal Crashworthiness Case, <u>Andrews Automotive Litigation Reporter</u>, August 2001.

What is Products Liability in the New Millennium? AzTLA Advocate, April 2001.

Accident Analysis of Air Bag Induced Injuries/Fatalities, AzTLA Advocate, September 2000.

Competing Tort Law Forums: Courts vs. Legislatures, AzTLA Advocate, September 2000.

The Air Bag Preemption War, ATLA Trial Magazine, September 2000.

Protecting Litigation Support Materials From Discovery, ATLA Trial Magazine, July 2000.

Large Trucks, Danger on the Road, AzTLA Advocate, June 2000.

Should A Product Manufacturer Be Held Liable For Failing To Recall A Defective Product Learned To Be Defective? <u>AzTLA Advocate</u>, February 2000.

One-way Protective Orders in PL Litigation Unfair, Maricopa Lawyer, November 1999.

Rollover Accidents: Why Vehicles Rollover and Why Motorists Suffer Catastrophic Injury, AzTLA Advocate, August 1999.

Contesting the Use of Statistical Accident Data to Defend Crashworthiness Claims, <u>ATLA The</u> Products Liability Law Reporter, Volume 18, Number 6, July 1999.

Admissibility of Evidence of Other Similar Incidents in Products Liability Cases, <u>AzTLA</u> <u>Advocate</u>, February 1999.

Enhanced Injuries: Apportionment or Not, AzTLA Advocate, April 1998.

Seat Safety: The Impact of Unsafe Design, TRIAL, February 1998.

Frontal Crashworthiness Concepts, ATLA 1997 Annual Convention, Attorneys' Information Exchange Group Program.

The Risk of Air Bag Systems, ATLA 1997 Annual Convention, Products Liability Section Program.

The Arizona Supreme Court Rejects Federal Preemption of Non-Airbag Crashworthiness Claims, AzTLA Advocate, June 1997.

The Risks and Benefits of Air Bag Systems: Are they Needlessly Killing and Injuring Motorists?, SAE International Congress and Exposition, 1997.

Hazardous Bedding for Children: Who is Responsible?, AzTLA Advocate, April 1997.

Federal Preemption: Victims Prevail in No-Air Bag Cases, AzTLA Advocate, September 1996.

The Daubert Decision: Gatekeeper or Executioner?, TRIAL, August 1996.

The Non-Relevancy of Statistics in a Products Liability Case, AzTLA Advocate, July 1996.

Pre-Trial Discovery: The Relevancy of the Design, Manufacture, and Testing of Other Vehicle Models and Other Accidents, WTLA Western Chronicle, Winter 1996.

Pre-Trial Discovery: The Relevancy of the Design, Manufacture, and Testing of Other Vehicle Models and Other Accidents, AzTLA Advocate, December 1995.

Children in Seat Belts in Crashes, WTLA Western Chronicle, Fall 1995.

Where Does Myrick Lead Us?, TRIAL, September 1995.

Victory in An Unsafe Seat Belt Case, WTLA Western Chronicle, Spring 1995.

The Analysis and Presentation of a Restraint System Case, Products Liability Advisory, May 1995.

Victory in a No Air Bag Case, TRIAL, April 1995.

Warnings in a Changing Marketplace: Why Wasn't I Told?, ATLA Products Liability Law Reporter, February 1995.

Representing Catastrophically Injured (Brain and Spinal Cord Injury) Victims, WTLA Western Chronicle, Fall 1994.

Rollover Accidents: Why Motor Vehicles Rollover and Why Motorists Suffer Catastrophic Injury in Rollover, <u>AzTLA Advocate</u>, July 1994.

Federal Preemption of Motor Vehicle Design Claims: It Does Not Exist, WTLA Western Chronicle, June 1994.

Pre-Trial Discovery Issues: Document Production by Compilation in a Reading Room, Maricopa Lawyer, March 1994.

Investigation Automotive Accidents, TRIAL, March 1994.

Evaluating Crashworthiness, AzTLA Advocate, January 1994.

The Use of Protective Orders, The Legal Intelligencer, Volume 209, No. 13, Pg. 7, July 1993.

Pre-trial Discovery Issues: Document Production By Compilation in a Reading Room, Products Liability Law Journal, May 1993.

Seat Belt Litigation, TRIAL (add'l authors - James Gilbert and Donald Slavik), February 1993.

The Tide Has Turned: Federal Preemption Cannot Defeat Motor Vehicle Design Claims -- Such As Air Bags and Passive Belt Actions, TRIAL, January 1993.

Litigating Corporate Discovery Objections on the Basis of Attorney-Client Privilege, Products Liability Law Journal, volume 4, November 1992.

Beware of Secrecy Agreements: A New Judicial Approach is Required, Products Liability Law Journal, August 1992.

Overcoming Objections to Discovery: Countering Attorney-Client and Work Product Arguments, TRIAL, July 1992.

Secrecy Agreements: A Cover-Up of Public Hazards, The Legal Intelligencer, Volume 206, No. 108, Pg. 8, June 1992.

Beware of Secrecy Agreements: New Judicial Approach to Protect the Public, The Legal Intelligencer, Volume 206, No. 96, Pg. 4, May 1992.

Should The Auto Industry Escape Responsibility For Its Refusal To Install Passive Restraints By Relying Upon Federal Preemption?, Products Liability Law Journal, August 1991.

Litigation of Professional Malpractice, The Legal Intelligencer, August 13, 1991.

Safety Hazards: Automatic Seat Belts And Lap Belts, TRIAL, July 1991.

Cross-Examination Of Witnesses; Reviewed by Larry E. Coben, <u>TRIAL</u>, July 1990. Seat Belts: A History of Neglect, <u>The Legal Intelligencer</u>, Volume 203, No. 5, Pg. 6, July 1990.

Should Motor Vehicle Manufacturers Be Responsible For Drunk Drivers?, Products Liability Law Journal, vol.1, no. 4, January 1990.

Seat Belts: The Automotive Industry's Defense To Poorly Designed Vehicles, Products Liability Law Journal, vol. 1, no. 2, June 1989.

Medicine And Law: Recent Developments, Tort and Insurance Law Journal, Winter 1989.

Sports Helmets: More Harm Than Protection?, TRIAL, March 1989.

Seat Belts: The Automobile Industry's Defense To Poorly Designed Vehicles, <u>Automotive Litigation Reporter</u>, October 1988.

Evaluating Crashworthiness: The Clues Are In The Wreckage, TRIAL, February 1988.

Federalism In Products Liability, TRIAL, November 1987.

Strict Liability, Burden Of Proof And Social Issues Of Risk Utility, Pennsylvania Law Journal-Reporter, May 1987.

Products Liability: Technical And Legal Implications - Part II - A Product's Manufacture And Use, Standardization News, September 1986.

Protective Orders In Product Liability Cases: The Gag Rule, TRIAL, August 1986.

It's Time To Reassess Discovery Rules, Pennsylvania Law Journal, June 1986.

Building A Crashworthy Car, TRIAL, July 1985.

A Good Beginning, Pennsylvania Law Journal, January 1985.

Using Experts and Discovery In Products Liability Cases, The Pennsylvania Lawyer, September 1984.

Motorcycle Helmets: The Difference -- Sometimes -- Between Life and Death, <u>TRIAL</u>, November 1983.

The Seat Belt Defense, The Pennsylvania Lawyer, March/April 1980.

Law Focus . . . Expert's Role Affected By New Discovery Rules, The Pennsylvania Lawyer, October 1979.

New Discovery Rules Go Into Effect In State, The Pennsylvania Lawyer, April 1979.

Amicus Brief Author

Stewart v. Toyota Motor Corporation - California Court of Appeals, Second District, Division 3, March 2011.

Williamson v. Mazda Motor of America, Inc. – U.S. Supreme Court, July 2010.

Hernandez-Gomez v. Volkswagen Of America - Arizona Supreme Court, 2001.

Geier v. Honda Motor Co. of America - U.S. Supreme Court, 1999.

Drattel v. Toyota Motor Corporation - New York Court of Appeals, 1998.

Zuern v. Ford Motor Company - Arizona Supreme Court, 1997.

Tibbetts v. Ford Motor Company - New Hampshire Supreme

CourtNagaraj v. American Honda Motor Company - Superior Court of Pennsylvania

Maurice Cox v. Chrysler Corporation - Supreme Court - South Carolina

Neilsen v. Porsche - United States Ninth Circuit Court of Appeals

Myrick v. Freightliner Corporation - Eleventh Circuit and U.S. Supreme

CourtLindsey v. Navistar International Transportation - Eleventh Circuit

Wayne Richart v. Ford Motor Company - Tenth Circuit

Barbara Ritt v. G.M. - Seventh Circuit

Patricia Wood v. G.M. - First Circuit

James Doty v. Ford Motor Co., District of Columbia

CircuitAlexander Evers v. G.M. - Eleventh Circuit

Presentation and Seminars

"What Trial Lawyers Should Know About Automotive Product Liability" American Association for Justice Seminar, Austin, Texas, January 11, 2016

"Hot Topics at Year-End", Legal Intelligencer Seminar, Philadelphia, Pennsylvania, December 2, 2015

"Helmets", AIEG 2015 Spring Seminar, San Diego, California, April 9, 2015

"Fighting Protective (Gag) Orders: You Must Share and Fight to Keep the Data", AIEG 2015 Spring Seminar, San Diego, California, April 9, 2015

"What's on the Horizon: Emerging Litigation Theories and Themes", AIEG 2015 Spring Seminar, San Diego, California, April 10, 2015

"Evidence of Defect and Effectiveness of Alternative Design in ESC Case: An Experimental Method", AIEG 2015 Spring Seminar, San Diego, California, April 9, 2015

- "Plaintiff-Only Hot Topics and Trends in Litigation", American Association for Justice Seminar, Miami Beach, Florida, January 28, 2015
- "Products Liability in Pennsylvania: Back to the Future-The Supreme Court Changes the Standard of Care-What's it Mean?" Legal Intelligencer Seminar, Philadelphia, Pennsylvania, December 16, 2014
- "Takata Air Bag Recall", American Association for Justice Seminar, New York, New York, December 11, 2014
- "Practical Tips for Trial Performance", Handling a Case from A to Z Seminar, Legal Intelligencer, Philadelphia, Pennsylvania, November 20, 2014
- "Product Liability", Show Me the Case Seminar, Legal Intelligencer, Doylestown, Pennsylvania, June 10, 2014
- "Using the Rules of Professional Conduct as a Weapon to Compel Pre-Trial Discovery", AIEG 2014 Spring Conference, Boston, Massachusetts, April 24, 2014
- "Looking Beneath the Surface: Identifying Causes of Action", Legal Intelligencer Seminar, Philadelphia, Pennsylvania, December 11, 2013
- "Over the Top Settlements" Pennsylvania Bar Institute Seminar, Philadelphia, Pennsylvania, November 7, 2013
- "Cargo Retention and Loading Claims", AIEG 2013 Fall Conference, Scottsdale Arizona, October 10, 2013
- "The Business of Personal Injury Law", Legal Intelligencer Seminar, Philadelphia, Pennsylvania, September 11, 2013
- "Injury Mechanics and Long Term Treatment of Concussions and Brain Injury", Arizona Association for Justice/Arizona Trial Lawyers Association, Phoenix, Arizona, March 22, 2013
- "Daubert: Ins, Outs and How-Tos", Arizona Association for Justice/Arizona Trial Lawyers Association, Phoenix, Arizona, October 11, 2012
- "Preemption—The Demise of FMVSS", AIEG 2011 Seminar, Austin, Texas.
- "Roof Strength and Pre-tensioner Seat Belt Protection", AIEG 2007 Seminar, New York, NY, October 2007.
- "Auto Focus", AIEG 2007 Seminar, Chicago, Illinois, April 19-21, 2007.
- "The Anatomy of a Trial for New Lawyers", Lorman Education Services, Phoenix, Arizona, April 21, 2006.

- "Earn & Collect Your Fees Ethically", State Bar of Arizona, Phoenix, Arizona, March 27, 2006.
- "Cars, Trains But No Planes", Arizona Trial Lawyers Association, Phoenix Arizona, March 18, 2005.
- "Auto Focus", AIEG 2004 Seminar, Santa Fe, New Mexico, October 27-30, 2004.
- "Experts Only as Good as The Lawyers Who Prepare Them", Arizona Trial Lawyers Association, Phoenix, Arizona, October 15, 2004.
- "Hold Me Back! Restraint Systems: The Dynamic State of Vehicle Safety & Their Impact on Litigation", Maricopa County Bar Association Seminar, Phoenix, Arizona, May 26, 2004.
- "Products Liability", Lorman Education Services, Phoenix, Arizona, May 25, 2004.
- "Identifying Product Liability Cases in Auto Litigation", Arizona Trial Lawyers Association, Auto Litigation/Arbitration/Mediation Program, Phoenix, Arizona, March 19, 2004.
- "Rollovers, Crashworthiness, Etc.," AzTLA seminar: "On the Road Again", Phoenix, Arizona, November 14, 2003.
- "AIEG Under Attack," AIEG 2003 Auto Focus seminar, Santa Monica, California, October 24, 2003.
- "Air Bag Discovery," AIEG 2002 Air Bag Summit V, Kansas City, Missouri, May 16-17, 2002.
- "Wrongful Death & Survivorship Law & Proof of Wrongful Death & Survivorship Damages," Arizona Trial Lawyers Association Damages Seminar, Phoenix, Arizona, March 22, 2002.
- "How to Present and Attack Accident Reconstruction Simulations: Advice and Demonstration," (presented in conjunction with Thomas M. Klein of Bowman & Brooke, LLP, and Stephen M. Werner, Ph.D., P.E., of Exponent), ABA's Emerging Issues in Motor Vehicle Product Liability Litigation, Phoenix, Arizona, March 21-22, 2002.
- "Networking on the Internet Sharing Information While Maintaining Confidentially and Work Product Privileges," ATLA 2001 Annual Convention, July 14-18, 2001.
- "Recreational Helmets Bicycle and Football: Design Defects Producing Head and Neck Injuries," ATLA 2001 Annual Convention, July 14-18, 2001.
- "Work Product," AIEG Spring Seminar, Denver, Colorado, March 30-April 1, 2001.
- "Recreational Helmets—Design Defects Producing Head and Neck Injuries," Texas Trial Lawyers Association, Products Liability Seminar, February 2001.

"Crashworthiness: Identifying and Pursuing Safety Issues in Litigation," AzTLA, Learned Luncheon Series, March 13, 2000.

"Competing Tort Law Forums: Courts vs. Legislature," ABA Section of Litigation, Products Liability Committee, Mid-year Meeting, February 3, 2000.

"From Classroom To Courtroom: Trial Techniques For the New Lawyer," ATLA sponsored seminar at Arizona State University College of Law, October 1999.

"Proof of Seat Belt Usage" and "Proof of Other Similar Incidents," AIEG Auto Focus Seminar, Scottsdale, Arizona, September 1999.

"Introduction to Crashworthiness," ATLA, AIEG Presentation at Annual ATLA Convention, July 1999.

"Trying The Airbag Case in 1999," ABA <u>Emerging Issues in Motor Vehicle Product Liability Litigation</u>, April 1999.

"Expert Selection/Cost Management," AzTLA Products Liability Seminar, 1998.

"Factual and Technical Discovery," AzTLA Products Liability Seminar, 1998.

"Ethics for Trial Lawyers: Where do Ethics Begin and End? What About Full Disclosure?," AzTLA Ethics for Personal Injury Lawyers, 1998.

"Seat Back and Rollover Accidents and Vehicle Defects," AIEG Spring Convention, 1998.

"Airbag Induced Injuries," ABA Spring Auto Focus Seminar, 1998.

"Air Bag Safety Issues and Frontal Crash Protection," ATLA Annual Convention, 1997.

"Use of Demonstrative Evidence," <u>Trial, Tactics, Tips & Techniques</u>, Pennsylvania Bar Institute, 1997.

"Hazardous Bedding for Children: Who Is Responsible?," Western Chronicle, S 1997.

"Rollover Accidents: Why Motor Vehicles Rollover and Why Motorists Suffer Catastrophic Injury in Rollover," Products Liability Section Newsletter, Vol. II, No. 1, Winter 1997.

"What Has *Daubert* Done to Us? — Or 'Where Has All the Evidence Gone?'," Andrews Automotive Litigation Reporter, August 5, 1997.

"The Risks and Benefits of Air Bag Systems: Are They Needlessly Killing and Injuring Motorists?," SAE International Congress and Exposition, 1997.

"Plaintiff's Perspective of Ethics and The Trial Attorney," AzTLA 1997.

"Auto Focus 1996," Chair - Attorneys Information and Exchange Group, October 1996.

"Automotive Litigation 1996: <u>Defect, Discovery, Decision</u>," Andrews Automotive Litigation Conference, September 1996.

"Investigation and Preparation of a Seatbelt Defect Case," ATLA Jazzfest Seminar, May 1996.

"Latest Trends in Motor Vehicle Design/Crashworthiness Litigation," AIEG Spring Seminar, May 1996.

"Seat Belt Performance in a Rollover Accident and Roof Crush," ABA <u>Emerging Issues in</u> Motor Vehicle Product Liability Litigation, March 1996.

"Proving and Disproving Enhanced Injury," Western Trial Lawyers Association - Auto Crashworthiness Seminar, October 1995.

"Roll the Dice with the Stars of Trial Advocacy," New Mexico Trial Lawyers Association, Las Vegas, Nevada, June 1995.

"Should Vehicle Manufacturers be Immune from Liability Because of Their Compliance with Federal Motor Vehicle Safety Standards? <u>The Preemption Saga Revisited</u>," ABA Emerging Issues in Motor Vehicle Product Liability Litigation, March 1995.

"Theme Development—Initial Presentation and Follow-up through trial," AIEG Spring Seminar, March 1995.

"Litigation Forecast: What the Future Holds for Your Firm," Legal World Seminar's Trans-Panama Canal Air/Sea Cruise, November 1994.

AIEG Auto Focus Automotive Products Liability Seminar, Tempe, Arizona, October 1994.

"Crashworthiness and Proof of Cause: Mechanisms of Injury," Annual Jazzfest Seminar: Crashworthiness and Other Products Liability Issues in Vehicle Litigation, New Orleans, LA, April 1994.

"Crashworthiness," Pennsylvania Bar Institute (PBI), Pennsylvania, April 1994.

"Frontal Crashworthiness and Roll Over Accidents," MTLA Products Liability Seminar, Jackson, Mississippi, March 1994.

"Child Car Seat Safety: Improper Restraint—Design Parameters and Instructional Liability Issues: (1) History of Child Restraints, and (2) Techniques to Enhance Recovery in Catastrophic Head Injury Cases," 1994 National Conference On Products Liability Law, Chicago, Illinois, March 1994.

"My Airbag Hurt Me—Injuries from Airbag Deployment," Emerging Issues in Motor Vehicle Product Liability Litigation, Phoenix, Arizona March 1994.

"Products Liability Update," Super Seminar on Personal Injury, Products Liability and Medical Negligence, National College of Advocacy, Tucson, Arizona, February 1994.

"Motor Vehicle Crashworthiness Frontal Collision Safety Issues," AIEG Auto Focus, Automotive Products Liability Seminar, Scottsdale, Arizona, October 1993.

"Litigation Issues Related to German Manufacturers," AIEG Adult Toys VI Seminar, Atlanta, Georgia, May 1993.

"Restraint System Litigation: Seat Belts, Air Bags, Seatback and Other Interior Design Product Defects," Arizona Trial Lawyers of America Automobile Crash Litigation Seminar, Phoenix, Arizona, April 1993.

"Legal and Factual Issues in Passive Restraint Litigation," ABA Third Annual National Institute on Emerging Issues in Automotive Litigation, Phoenix, Arizona, April 1993.

"Crashworthiness/Seat Belt Litigation," Kentucky Academy of Trial Attorneys Collision Dynamics Seminar, Louisville, Kentucky, March 1993.

"Litigation Issues Related to Passive Seat Belt Design Claims," ATLA Winter Convention - Litigation At Sunrise, Acapulco, Mexico, January 1993.

"Combating the Paper Explosion: Effective Document Control," ATLA Winter Convention, Acapulco, Mexico, January 1993.

"Pre-Trial Discovery Issues: Document Production By Compilation In A Reading Room," AIEG Rear Seat Lap Belts, Atlanta, Georgia, January 1993.

"Issues Of Federal Preemption In Automotive Litigation," for AIEG/Auto Focus 1992 Seminar, California, September 1992.

"Automobile Passenger Restraints Which Don't," ATLA Annual Convention, Washington, D.C., July 1992.

"Recreational Helmets—Design Defects Producing Head And Neck Injuries" and "Litigation Issues Related To Passive Seat Belt Design Claims," AIEG Adult/Toy Seminar, Dallas, Texas, April 1992.

"Emerging Issues In Automobile Product Liability Litigation," American Bar Association Seminar, Phoenix, Arizona, April 1992.

"Restraint System Litigation: Seat Belts, Air Bags, Seat Back And Other Interior Design Product Defects," Arizona Trial Lawyers Association Seminar on Automotive Crash Litigation, February 1992.

"Identifying The Crashworthiness Case," Pennsylvania Bar Institute Seminar, Pittsburgh, Pennsylvania, December 1991 and Philadelphia, Pennsylvania, January 1992.

"Design Defects In Safety Equipment: Air Bags, Passenger Restraint Systems and Child Seat," ATLA Seminar, Washington, D.C., October 1991.

"Handling The Seat Belt Case," ATLA Convention, Toronto, Canada, July 1991.

"Litigation Issues In Automobile Rear Seat Lap Belt Cases," Pennsylvania Trial Lawyers Association Annual Convention, Pittsburgh, Pennsylvania, July 1991.

"Handling the Seat Belt Case," ATLA Annual Convention, Toronto, Canada, July 1991.

"Crashworthiness and Vehicle Defects," 1991 Kentucky Bar Association Annual Convention, Louisville, Kentucky, June 1991.

"Use of Occupant Kinematics Simulation at Trial" and "Occupant Restraint and Protection/Automobile Product Liability Litigation," AIEG Adult Toys Seminar, Denver, Colorado, April 1991.

"Survey of Pertinent Passenger Restraint Regulations and Their Impact on Automobile Product Liability Litigation," ABA National Institute Seminar, Phoenix, Arizona, March 1991.

"Occupant Kinematics And Injury Mechanism In Motor Vehicle Crashes," Attorneys Information Exchange Group - Auto Focus '90 Seminar, September 1990.

"War Games: Or How To Prepare For And Depose Expert Witnesses In Seat Belt Defense Cases," ATLA Second Annual Workhorse Seminar, September 1990.

"Side Impact/Crashworthiness," Auto Focus 1989, Automotive Product Liability Seminar, AIEG CLE Program for 1989.

"Seat Belts That Kill And Maim And Shouldn't: Problems and Solutions." ATLA Workhorse Seminar, Chicago, September 1989.

"Seat Belt Safety: NHTSA Oversight," Testimony Before the U.S. House of Representatives Gov't Activities and Transportation Subcommittee, June 23, 1988.

[The Dangers of Rear Seat Lap Belts.]"Products Liability," Pennsylvania Bar Institute, 1988.

"Automotive Design Seminar," Pennsylvania Bar Institute, 1988.

"Passive Restraint Litigation," The American Trial Association, AIEG Seminar, October 1985.

"Initial Case Work-Up: Plaintiff," The Philadelphia Bar Association, Personal Injury Practice Seminar, April 25, 1984.

"Discovery," Pennsylvania Trial Lawyers Association Products Liability Seminar, February 25, 1984.

"Discovery And Use Of Experts In Products Cases," Pennsylvania Trial Lawyers Association Annual Convention, 1983.

Teaching Activities

Arizona State University Sandra Day O'Connor College of Law, guest speaker "Analysis and Trial of a Products Liability Case", November 2015

Arizona State University Sandra Day O'Connor College of Law, guest speaker "Products Liability", 2008-2009.

Graduate course at the Engineering School of the University of Pennsylvania, entitled "Engineering In Litigation," 1989-90.

EXHIBIT O

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

DECLARATION OF SAMUEL ISSACHAROFF IN SUPPORT OF CO-LEAD CLASS COUNSEL'S PETITION FOR AN AWARD OF ATTORNEY'S FEES AND REIMBURSEMENT OF COSTS AND EXPENSES

Samuel Issacharoff declares as follows pursuant to 28 U.S.C. § 1746:

1. I submit this declaration in support of Co-Lead Class Counsel's Petition for an Award of Attorney's Fees and Reimbursement of Costs and Expenses in connection with and for services rendered and expenses incurred for the common benefit of the Settlement Class in the above-captioned multidistrict litigation ("Action") from the inception of the litigation through December 28, 2016, as well as for the payment of expenses incurred therewith. I have personal

knowledge of the matters set forth in this declaration and, if called upon, I could and would testify competently thereto.

- 2. I have been consulted by lead attorneys for the plaintiffs since the inception of the consolidated litigation in the current MDL. All of my work consisted of legal advice on the structure of any proposed settlement. In that role, I attended meetings with cooperating counsel and, on occasion, with some of the NFL class members. However, my central work on this case began during the period of intensive settlement negotiations. My primary role was to serve as a legal advisor to lead counsel Chris Seeger on matters relating to class resolution of this case. In that role, I advised on settlement strategy and I appeared as needed at settlement discussions or before this Court. I took responsibility for the finalization of all briefs to this Court on settlement and class matters. I also served as lead counsel on all appeals of this case. I twice argued appeals before the Third Circuit, both times serving as the primary advocate in conjunction with the NFL's counsel, who argued a more limited set of issues. I coordinated with the NFL's counsel on both appeals, reviewed their briefs, and on two occasions held joint mooting sessions with NFL appellate counsel. I was also primary draftsman and counsel of record in the Supreme Court in opposition to the two petitions for certiorari. My work in the case is ongoing and I will continue to serve as lead appellate lawyer on any complications from or collateral challenges to settlement implementation.
- 3. The schedule attached hereto as Exhibit 1 is summary of the time I spent on the matter, all of it spent on legal briefing, argument, and advising. In addition, it includes a small number of hours spent by Cynthia Estlund on the preparation of class argument on preemption issues. Estlund is a professor at NYU Law School specializing in labor issues and she worked in assisting David Fredericks for argument on the issue before this Court.

4. The total lodestar comes to \$800,512.50. These lodestar calculations are based on current billing rates for non-contingent work for which I currently charge \$1,000 per hour for non-contingent work. For example, I submit regularly hour-based billings at this rate in a bankruptcy court and have been paid at this rate for some time. All of the hours were based on contemporaneous time records that I kept, or the small number of hours kept by Professor Estlund. Time expended in preparing this application for attorney's fees and expenses has been excluded.

5. I have separately billed for expenses and those are not included in my hourly rate. As detailed in Exhibit 2 hereto, I am seeking reimbursement of a total of \$7,302.22 in common benefit expenses incurred in connection with the prosecution of this Action. These expenses are reflected on contemporaneous billing records in this case. These expenses consist exclusively of travel to and from Philadelphia for court appointments, preparation for arguments, and for arguments before the Third Circuit. These expenses include hotel and travel, as well as meals and incidental hotel charges.

6. I attach a current CV for myself and for Cynthia Estlund. I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 28, 2016 at Kent, Connecticut.

Samuel Íssacharoff

EXHIBIT 1

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

Samuel Issacharoff & Cynthia Estlund

LODESTAR REPORT

Inception through July 15, 2016

NAME	HOURS	HOURLY RATE	AMOUNT
Samuel Issacharoff	793.5	1000.00	793,500.00
Cynthia Estlund	8.25	850.00	7,012.50
•			
TOTALS:			800,512.50

EXHIBIT 2

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

Samuel Issacharoff

COST AND EXPENSE REPORT

Inception through July 15, 2016

NUMBER	CATEGORY	AMOUNT
1	Assessments	0
2	Commercial Copies	0
3	Computerized Research	0
4	Court Reporters/Transcripts	0
5	Expert Services	0
6	Facsimile	0
7	Filing & Service Fees	0
8	In-House Copies	0
9	Long Distance Telephone	0
10	Postage/Express Delivery	0
11	Travel/Meals/Lodging	7,302.22
12	Miscellaneous	0
TOTAL EXPENSES		7,302.22

EXHIBIT 3

SAMUEL ISSACHAROFF

New York University School of Law 40 Washington Square South New York, NY 10012 (212) 998-6580, Fax: (212) 995-4590 Home Address 300 West End Ave. New York, N.Y. 10023 (212) 362-9461

ACADEMIC EXPERIENCE

New York University School of Law

- · Bonnie and Richard Reiss Professor of Constitutional Law (2005)
- · Visiting Professor (2004-2005)

Harvard Law School

email: si13@nyu.edu

· Samuel Williston Visiting Professor (Fall 2008)

Columbia Law School

- · Harold R. Medina Professor in Procedural Jurisprudence (2001 2005)
- · Professor (1999 2001)
- · Visiting Professor (1998-1999)

Oxford University

· Astor Visiting Lecturer (June 2005)

Tel Aviv University

· Visiting Professor (May-June 2006)

University of Texas School of Law

- · Joseph D. Jamail Centennial Chair in Law (1998-1999)
- · Charles Tilford McCormick Professor in Law (1994-1998)
- · Professor and Preston Shirley Faculty Fellow (1993-94)
- · Assistant Professor (1989-1993)

University of Pennsylvania Law School

· Lecturer in Law (1986-1989)

Gerzensee Center for Law and Economics, Switzerland

· Visiting Lecturer on Constitutional Law (May 2008)

University of Toronto School of Law

Full Professor Status Only (2011-2014) (Dissertation reviewer)

University of Melbourne School of Law

· Senior Fellow (2011)

Courses Taught: Civil Procedure, Employment Law, Law of Democracy, Constitutional Law, Comparative Constitutional Law, Complex Litigation, Legal Process, Profession of Law

EDUCATION

Yale Law School, J.D. 1983

Editor, Yale Law Journal.

Graduate Center, City University of New York

Graduate studies in Labor History (1976-77); University Fellowship.

Universite de Paris, 1975-76

State University of New York at Binghamton, B.A. 1975

Major in History.

PROFESSIONAL EXPERIENCE

- Guerrieri, Edmond & James, Washington, D.C. (1988-1989) Of counsel, handling special litigation for labor law firm.
- Lawyers' Committee for Civil Rights Under Law, Washington, D.C. (1985-1988)
 Staff attorney with Voting Rights Project (served as Acting Director of Voting Rights Project, 1985-86). Conducted voting rights litigation and other civil rights case work throughout the U.S.
- Kirschner, Walters, Willig, Weinberg & Dempsey, Associate, Phila., PA. (1985)
 Union labor law practice representing public and private employees in court, arbitration and administrative proceedings.
- · Lawyers' Committee for International Human Rights (1984)

Received J. Roderick MacArthur Fellowship to represent Lawyers' Committee in Argentina and Uruguay. Worked with Centro de Estudios Legales y Sociales in Buenos Aires on issues concerning transition from dictatorship to civilian government and prosecutions of former military rulers.

United States Court of Appeals for the Third Circuit (1983-84)
 Law Clerk to Honorable Arlin M. Adams.

PUBLICATIONS

Articles

- Outsourcing Politics: Political Parties and the Theory of the Firm, __ HOUSTON L. REV.. __ (forthcoming 2017)
- · Voter Welfare: An Emerging Rule of Reason in Voting Rights Law, __ IND. L. J.. __ (forthcoming 2016)
- · Living to Fight Another Day: Judicial Deferral in Defense of Democracy, 2016 WISC. L. REV. 683 (with Rosalind Dixon).
- · Constitutional Implications of the Cost of War, 83 U. CHICAGO L. REV. 169 (2016) (with Lucas Issacharoff)
- · Voting Rights at 50, 67 ALA. L. REV. 387 (2016).
 - Ballot Bedlam, 64 DUKE L. J. 1363 (2015).
- The Australian Alternative: A View From Abroad of Recent Developments in Securities Class Actions, 34 U. NEW SOUTH WALES L. REV. 179 (2015) (with Thad Eagles).
- · Constitutional Courts and Consolidated Power, 62 Am. J. Comp. L. 585 (2014).
- The Democratic Risk to Democratic Transitions, 5 CONSTIT. COURT REV. 1 (2014).
- The BP Oil Spill Settlement and the Paradox of Public Litigation, 74 L.S.U. L. Rev. 397 (2014) (with D. Theodore Rave).
- · Market Intermediaries in the Post-Buckley World, 89 NYU L. REV. ONLINE 105 (2014)
- · Litigation Funding and the Problem of Agency Cost in Representative Actions, 66 DEPAUL L. REV. 561 (2014).
- Beyond the Discrimination Model on Voting, 127 HARV. L. REV. 95 (2013).
- · Assembling Class Actions, 90 WASH. U. L. REV. 699 (2013).
- Targeted Warfare: Individuating Enemy Responsibility, 88 N.Y.U. L. REV 1521 (2013) (with Richard H. Pildes)
- The Governance Problem in Aggregate Litigation, 81 FORDHAM L. REV. 3165 (2013).
- · An Information Forcing Approach to the Motion to Dismiss, J. LEGAL ANALYSIS (June 5, 2013) http://jla.oxfordjournals.org/content/early/2013/06/05/jla.lat002.full. (with Geoffrey P. Miller).
- Special Interests After Citizens United: Access, Replacement, and Interest Group Response to Legal

- Change, 9 ANNUAL REV. L. & Soc. Science 185 (2013) (with Jeremy Peterman).
- Federalized America: Reflections on Erie v. Tompkins and State-Based Regulation, 10 J. ECON. LAW & POL'Y 199 (2013).
- · Prologue: Argentina's Electoral Reforms, 11 ELECTION L. J.529 (2012).
- · Fairness in Aggregation, 9 U.S.-CHINA L. REV. 477 (2012).
- · Class Actions and State Authority, 44 Loy. U. CHI. L. J.370 (2012).
- · Acciones de Clase y Autoridad Estatal, 219 REVISTA DE PROCESSO.153 (2013)(Brazil, translation).
- · 10 X 10, 10 INT'L J. CONSTIT. L. 778 (2012).
- · Clarity About Super PACs, Independent Spending, and Citzens United, 2 J.L.469 (2012).
- · Disclosure, Agents, and Consumer Protection, 167 J. of Institutional & Theoretical Econ. 56 (2011)
- · Constitutional Courts and Democratic Hedging, 99 GEORGETOWN L. J. 961 (2011)
- · On Political Corruption, 124 HARV. L. REV. 118 (2010)
- · Judging in Times of the Extraordinary?, 47 HOUSTON L. REV. 533 (2010)
- · Citizens United and the American Law of Party Funding, 30 QUADERNI CONSTITUZIOANLI 392 (2010) (in Italian)
- · Pragmatic Originalism?, 5 N.Y.U. J. OF LAW & LIBERTY 517 (2010)
- · The Public Value of Settlement, 78 FORDHAM L. REV. 1177 (2009) (with Robert H. Klonoff).
- Political Safeguards in Democracies at War, 2009 OXFORD J. LEGAL STUDIES 1
- The Constitutional Logic of Campaign Finance Regulation, 36 Pepperdine. L. Rev. 373 (2009).
- Will Aggregate Litigation Come to Europe?, 62 VANDERBILT L. REV. 179 (2009) (with Geoffrey P. Miller).
- · Private Claims, Aggregate Rights. 2008 SUPREME COURT REV. 183
- Meriwether Lewis, the Air Force, and the Surge: The Problem of Constitutional Settlement, 12 Lewis & Clark L. Rev. 649 (2008).
- · Class Action Settlements Under Attack, 156 U. PENN L. REV. 1649 (2008) (with Richard A Nagareda).
- · Democracy and Collective Decisionmaking,, 6 INT'L J. CONSTITUTIONAL LAW 231 (2008).

- Fragile Democracies, 120 HARV. L. REV. 1405 (2007).
- · Protected from Politics: Diminishing Margins of Electoral Competition in U.S. Congressional Elections, 68 OHIO St. L. Rev. 1121 (2007)(with Jonathan Nagler).
- Regulating After The Fact, 56 DEPAUL L. REV. 375 (2007).
- · Backdoor Federalization, 53 UCLA L. REV. 1353 (2006)(with Catherine M. Sharkey).
- · Credit Card Accountability, 73 UNIV. CHICAGO L. REV.157 (2006) (with Erin F. Delaney).
- · Settled Expectations in a World of Unsettled Law, 106 COLUM. L. REV. 1839 (2006).
- · Getting Beyond Kansas, 74 UMKC L. REV. 613 (2006).
- · Law, Rules and Presidential Selection, 120 POLITICAL SCIENCE QUARTERLY 113(2005).
- · Collateral Damage: The Endangered Center in American Politics, 46 WILLIAM & MARY L. REV. 415 (2004).
- The American Law of Repose, 23 Civil Justice Quarterly 324 (2004).
- Where to Draw the Line: Judicial Review of Political Gerrymanders, 153 PENN L. REV. 541 (2004)(with Pamela S. Karlan).
- The Elusive Search for Constitutional Integrity: A Memorial for John Hart Ely, 57 STANFORD L. REV.727 (2004).
- · Is Section 5 of the Voting Rights Act a Victim of Its Own Success?, 105 COLUM. L. REV. 1710 (2004).
- The Inevitability of Aggregate Settlements: An Institutional Account of American Tort Law, 57 VANDERBILT L. REV.1571 (2004)(with John Fabian Witt).
- · Constitutionalizing Democracy in Fractured Societies, 82 TEXAS L. REV. 1861 (2004).
- · Constitutionalizing Democracy in Fractured Societies, 58 JOURNAL OF INTERNATIONAL AFFAIRS 73 (2004)(version of prior entry).
- · Throwing in the Towel: The Constitutional Morass of Campaign Finance, 3 ELEC. L. J. 259 (2004).
- Emergency Contexts Without Emergency Powers: The United States' Constitutional Approach to Rights During Wartime, 2 INT'L JOURNAL OF CONSTITUTIONAL LAW 296 (2004)(with Richard H. Pildes).
- Between Civil Libertarianism and Executive Unilateralism: An Institutional Process Approach to Rights During Wartime, 5 THEORETICAL INQUIRIES IN LAW 1 (2003)(with Richard H. Pildes)(overlaps with prior article).
- Owen Fiss and the Warren Court Legacy: Politics, Law, and the Struggle for Equal Protection, 58 MIAMI. L. REV. 35 (2003)(with Pamela S. Karlan).

- The Enabling Role of Democratic Constitutionalism: Fixed Rules and Some Implications for Contested Presidential Elections, 81 Tex. L. Rev. 1985 (2003).
- Regulation for Conservatives: Human Decision Making and the Case for "Asymmetric Paternalism," 151 PENN. L. REV. 1211 (2003)(with Colin Camerer, George Loewenstein, Ted O'Donoghue, and Matthew Rabin).
- Gerrymanders and Political Cartels, 116 HARV. L. REV. 593 (2002).
- · Why Elections?, 116 HARV. L. REV. 684 (2002).
- · Preclusion, Due Process, and the Right to Opt Out of Class Actions, 77 NOTRE DAME L. REV. 1057 (2002)
- The Content of Our Casebooks: Why Cases Get Litigated, 29 FL. St. L. Rev. 1265 (2002).
- The Two Sides of Freedom of Expression, 1 REVISTA DE DERECHO 79 (Universidad de Montevideo 2002).
- · "Shocked": Mass Torts and Aggregate Asbestos Litigation After Amchem and Ortiz, 80 U. Tex. L. Rev. 1925 (2002).
- · Law and Misdirection in the Debate Over Affirmative Action, 2002 UNIV. CHI. LEGAL FORUM 11.
- The Difficult Path From Observation to Prescription, 77 N. Y. U. L. REV 36 (2002).
- · Behavioral Decision Theory at the Court of Public Law, 87 CORNELL L. REV. 671 (2002).
- · Political Judgments, 68 U. CHI. L. REV. 637 (2001).
- · Can Process Theory Constrain Courts?, 72 U. Col. L. Rev. 923 (2001)(with Michael C. Dorf).
- · Race and Campaign Finance Reform, 79 N. CAR. L. REV. 1523 (2001).
- · Private Parties With Public Purposes: Political Parties, Associational Freedoms, and Partisan Competition, 101 COLUM. L. REV. 274 (2001).
- · Introduction to Symposium: The Structures of Democratic Governance, 100 COLUM. L. REV. 593 (2000).
- Oversight of Regulated Political Markets, 24 HARV. J. L & PUB. POL'Y 91 (2000).
- · The Vexing Problem of Reliance in Consumer Class Actions, 74 Tulane. L. Rev. 1633 (2000).
- · Discrimination with a Difference: Can Employment Discrimination Law Accommodate the Americans with Disabilities Act?, 79 NORTH CAROLINA L. REV. 307 (2001)(with Justin Nelson).
- · Governance and Legitimacy in the Law of Class Actions, 1999 SUPREME COURT REVIEW 187.
- · The Hydraulics of Campaign Finance Reform, 77 TEX. L. REV. 1705 (1999)(with Pamela Karlan).

- Governing through Intermediaries, 85 VIRGINIA L. REV. 1627 (1999)(with Daniel Ortiz).
- · Group Litigation of Consumer Claims: Lessons of the American Experience, 34 Tex. Int'l L. J. 135 (1999).
- · Not By 'Election Law' Alone, 32 LOYOLA L. REV. 1173 (1999) (with Richard Pildes).
- · Standing and Misunderstanding in Voting Rights Law, 111 HARV. L. REV. 2276 (1998)(with Pamela Karlan).
- Can Affirmative Action Be Defended?, 59 OHIO ST. L. J. 669 (1998).
- · Can There Be a Behavioral Law and Economics?, 51VANDERBILT L. REV. 1729 (1998).
- · Politics as Markets: Partisan Lockups of the Democratic Process, 50 STANFORD L. J. 643 (1998)(with Richard Pildes).
- Creating Convergence: Debiasing Biased Litigants, 22 J. OF LAW AND SOCIAL INQUIRY 913 (1998)(with Linda Babcock and George Loewenstein).
- · Is Age Discrimination Really Age Discrimination?: The ADEA's Unnatural Solution, 72 N.Y.U. L. REV. 780 (1997)(with Erica Worth Harris).
- · Class Action Conflicts, 30 U. C. DAVIS L. REV. 805 (1997).
- Racial Gerrymandering in a Complex World: A Reply to Judge Sentelle, 45 CATH. U. LAW REV. 1257 (1996).
- · The Constitutional Contours of Race and Politics, 1995 SUPREME COURT REVIEW 45.
- · Contracting For Employment: The Limited Return of the Common Law, 74 Texas Law Review 1783 (1996).
- · Identifying the Harm in Racial Gerrymandering Claims, 1 MICH. J. OF RACE & LAW 47 (1996)(with Thomas C. Goldstein).
- · Supreme Court Destabilization of Single-Member Districts, 1995 UNIV. OF CHICAGO LEGAL FORUM 205.
- · Unintended Consequences of Mandatory Disclosure, 73 TEXAS L. REV. 753 (1995)(with George Loewenstein).
- · Groups and the Right to Vote, 44 EMORY L. J. 869 (1995)
- Women and the Workplace: Accommodating the Demands of Pregnancy, 95 Col. L. Rev. 2154 (1994)(with Elyse Rosenblum).
- Race and Redistricting: Drawing Constitutional Lines after Shaw v. Reno, 92 MICHIGAN LAW REVIEW 588 (1993)(with T. Alexander Aleinikoff).

- · Biased Judgments of Fairness in Bargaining, 85 AMERICAN ECONOMIC REVIEW 1337 (1995)(with L. Babcock, G. Loewenstein, and C. Camerer).
- · Judging Politics: The Elusive Quest for Judicial Review of Political Fairness, 71 Texas Law Review 1643 (1993).
- · Source Dependence in the Valuation of Objects, 7 JOURNAL OF BEHAVIORAL DECISIONMAKING 157 (1994)(with G. Loewenstein)
- · Polarized Voting and the Political Process: The Transformation of Voting Rights Jurisprudence, 90 MICH. L. REV. 1833 (1992).
- · When Substance Mandates Procedure: Martin v. Wilks and the Rights of Vested Incumbents in Civil Rights Consent Decrees, 77 CORNELL L. REV. 189 (1992).
- · Self-Serving Assessments of Fairness and Pretrial Bargaining, 22 JOURNAL OF LEGAL STUDIES 135 (1992)(with George Loewenstein, Colin Camerer, Linda Babcock).
- The Census Undercount and Minority Representation: The Constitutional Obligation of the States to Guarantee Equal Representation, 13 REVIEW OF LITIGATION 1 (1993)(with Allan J. Lichtman).
- · Administering Damage Awards in Mass-Tort Litigation, 10 REV. OF LITIG. 463 (1991).
- · Black/White Voter Registration Disparities in Mississippi: Legal and Methodological Issues in Challenging Bureau of Census Data, 7 J. LAW & POLITICS 525 (1991)(with Allan J. Lichtman).
- · Second Thoughts About Summary Judgment, 100 YALE L.J. 73 (1990)(with George Loewenstein).
- · Dictatorship on Trial: Prosecution of Human Rights Violations in Argentina, 10 YALE J. INT'L LAW 118 (1985) (with E. Mignone and C. Estlund).
- · Note, Making the Violation Fit the Remedy: The Intent Standard and Equal Protection Law, 92 YALE L.J. 328 (1982).

Review Essays

- Bearing the Costs, Review of M. Kelman, STRATEGY OR PRINCIPLE?: THE CHOICE BETWEEN REGULATION AND TAXATION, 53 STAN. L. REV. 519 (2000).
- · Contractual Liberties in Discriminatory Markets, Review of R. Epstein, FORBIDDEN GROUNDS, 70 TEX. L. REV. 1219 (1992).
- Reconstructing Employment, Review of P. Weiler, GOVERNING THE WORKPLACE: THE FUTURE OF LABOR AND EMPLOYMENT LAW, 104 HARV. L. REV. 607 (1990).

Books

- FRAGILE DEMOCRACIES: CONTESTED POWER IN THE ERA OF CONSTITUTIONAL COURTS (Cambridge Univ. Press, 2015).
- · CIVIL PROCEDURE (Foundation Press, 2005).
- · CIVIL PROCEDURE (Foundation Press, 2d. edition, 2008).
- · CIVIL PROCEDURE (Foundation Press, 3d. edition, 2011).
- THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS (with Pamela Karlan and Richard Pildes)(Foundation Press, 1998).
- THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS (with Pamela Karlan and Richard Pildes)(Foundation Press, 2d. edition, 2001).
- THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS (with Pamela Karlan and Richard Pildes)(Foundation Press, 3d. edition, 2007).
- THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS (with Pamela Karlan and Richard Pildes) (Foundation Press, 4th. edition, 2012).
- THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS (with Pamela Karlan, Richard Pildes, and Nathaniel Persily)(Foundation Press, 5th. edition, 2016).
- · WHEN ELECTIONS GO BAD: THE LAW OF DEMOCRACY AND THE PRESIDENTIAL ELECTION OF 2000 (with Pamela Karlan and Richard Pildes)(Foundation Press, 2001).
- · WHEN ELECTIONS GO BAD: THE LAW OF DEMOCRACY AND THE PRESIDENTIAL ELECTION OF 2000 (with Pamela Karlan and Richard Pildes)(Foundation Press, 2d. edition, 2001).
- · Party Funding and Campaign Financing in International Perspective (with K.D. Ewing) (Hart Press, Oxford, 2006).

Book Chapters

- · Comparative Constitutional Law as a Window on Democratic Institutions, in MODERN COMPARATIVE CONSTITUTIONAL LAW (Rosalind Dixon & Erin F. Delaney, eds.,______, forthcoming 2017).
- Due Process in Law, in International Encyclopedia of the Social & Behavioral Sciences, 2nd ed. 696 (James D. Wright, ed., Oxford: Elsevier, 2015).
- · Citizens United y la Regulacion del Financiamento a Partidos Politicos en los Estados Unidos de American, in SENTENCIAS RELEVANTES DE CORTES EXTRANJERAS 153 (Tribunal Electoral del Poder Judicial de la Federacion, Mexico, 2013).
- · Drones and the Dilemma of Modern Warfare, in Drones and the Promise of Law: How

- ADVANCES IN MILITARY TECHNOLOGY ARE TRANSFORMING ARMED CONFLICT AND CHALLENGING POLICY AND PRACTICE (P. Bergen & D. Rothenberg, eds) (Cambridge Univ. Press, 2014) (with Richard H. Pildes).
- Epilogue: Bush v. Gore and the Constitutional Right to Vote, in ELECTION ADMINISTRATION IN THE UNITED STATES: THE STATE OF REFORM AFTER BUSH V. GORE (M. Alvarez & B. Grofman, eds) (Cambridge Univ. Press, 2014) (with Richard H. Pildes).
- Due Process in Law, in International Encyclopedia of Social and Behavioral Sciences, 2nd Ed. (Forthcoming 2015).
- · Managing Conflict Through Democracy, in RIGHTS IN DIVIDED SOCIETIES COMPARADO 33 (Harvey & Schwartz, eds) (Hart Publishing 2012).
- Antidiscrimination in Employment: The Simple, the Complex, and the Paradoxical, in RESEARCH HANDBOOK ON THE ECONOMICS OF LABOR AND EMPLOYMENT LAW 385 (C. Estlund & M. Wachter, eds) (Edward Elgar Press 2012) (with E. Scharff).
- Fairness in Aggregation, in Procesos Colectivos/Class Actions: Proceedings of 1st International Conference on Procedural Law 31 (2012).
- The Majoritarian Threat to Democracy: Constitutional Courts and the Democratic Pact, in Majority Politics 236 (S. Novak & J. Elster, eds) (2014).
- · Will Aggregate Litigation Come to Europe?, in The Law and Economics of Class Actions in Europe: Lessons From America 37 (J. Backhaus, A Cassone & G. Ramello eds) (2012) (with Geoffrey Miller).
- · Party Funding and Campaign Finance Law in the United States, in LA RESOLUCION DE LOS CONFLICTOS ELECTORALES: UN ANALISIS COMPARADO, (P. Biglino Campos & L. Delgado del Rincon, eds) (2010).
- · Facts, Investigation and the Role of Discovery, in LITIGATION IN ENGLAND AND GERMANY: LEGAL PROFESSIONAL SERVICES, KEY FEATURES AND FUNDING 39 (P. Gottwald, ed)(2010).
- Aggregating Private Claims, in LITIGATION IN ENGLAND AND GERMANY: LEGAL PROFESSIONAL SERVICES, KEY FEATURES AND FUNDING 63 (P. Gottwald, ed)(2010).
- The Institutional Dimension of Consumer Protection, in New Frontiers of Consumer Protection: Combining Private and Public Enforcement (F. Cafaggi & H.-W. Micklitz, eds) (2009)(with Ian Samuel).
- · Democracy and Electoral Processes, in RESEARCH HANDBOOK ON LAW AND PUBLIC CHOICE 173 (D. Farber & A. J. O'Connell, eds) (2010)(with Laura E. Miller).
- · A Cosmopolitan Judge for a Cosmopolitan Era: An Essay in Honor of Carl Baudenbacher, in Economic Law and Justice in Times of Globalization: Festschrift for Carl Baudenbacher 131 (M. Monti, N. Liechtenstein, B. Vesterdorf, J. Westbrook, L. Wildhaber, eds)(2007).

- Supreme Court Preemption: The Contested Middle Ground of Products Liability, in FEDERAL PREEMPTION: STATES' POWERS, NATIONAL INTEREST 194 (Richard A. Epstein & Michael S. Greve, eds.) (2007) (with Catherine Sharkey).
- · Does Section 5 of the Voting Rights Act Still Work?, in The Future of the Voting Rights Act (D. Epstein, R. Pildes, R. de la Garza, S. O'Halloran, eds., Russell Sage, 2006).
- · Compensation for the Victims of September 11 in THE HANDBOOK OF REPARATIONS (P. De Grieff, ed., Oxford 2006) (with Anna Morawiec Mansfield).
- · Legal Regulation of Conflict of Interest, in Conflicts of Interest: Problems and Solutions in Law, Medicine, and Organizational Settings (M. Bazerman, G. Loewenstein, & D. Moore, eds., Cambridge Univ. Press, 2005).
- · Baker v. Carr in Context, in Constitutional Law Stories 297-323 (M. Dorf, ed., Foundation Press, 2004) (with Stephen Ansolabehere).
- Due Process in Law, in International Encylopedia of Social and Behavioral Sciences 3894-97 (Elsevier Ltd., 2001) (2d ed. 2012).
- Too Much Lawyering, Too Little Law, in THE REFORM OF CIVIL PROCEDURE, (A.A.S. Zuckerman & R. Cranston, eds., Oxford Univ. Press, 1995).
- Bargaining Impediments and Settlement Behavior (with Charles Silver and Kent Syverud), in DISPUTE RESOLUTION: BRIDGING THE SETTLEMENT GAP, Anderson, ed., JAI Press, 1996).
- The Redistricting Morass, in Affirmative Action and Representation, (A. Peacock, ed., Carolina Acad. Press, 1997).
- · Litigating for Equality of Political Opportunity, in J. Lobel, ed., CIVIL RIGHTS LITIGATION AND ATTORNEY FEES ANNUAL HANDBOOK (Clark, Boardman, 1987).

Reports, Other Publications, and Current Manuscripts

- · "Plebiscite Options on the Status of Puerto Rico," Report prepared for the Governor of Puerto Rico and the Partido Popular Democrático October 8, 2015 (Updated February 6, 2016).
- · "It's Still a Struggle," REVIEW OF ARI BERMAN, GIVE US THE BALLOT: THE MODERN STRUGGLE FOR VOTING RIGHTS IN AMERICA, The American Prospect, Fall 2015, at 92.
- "Keep Shining the Light on 'Dark Money," POLITICO (April 12, 2015) (with Robert F. Bauer)
- · "The Future of Voting Rights 17 N.Y.U. J. LEGIS. & PUB.POL'Y (2014) (symposium contribution).
- · "Where Parties Get Their Money From" The Indian Express, June 7, 2013.
- · "Iraq and Afghanistan, Who Is an Enemy Combatant?" Los Angeles Times, June 4, 2010.
- · "Fear Not, Critics of Citizens United, A Constitutionally Tested Solution is at Hand," American

Lawyer, April 2010.

- "Party Funding and Campaign Finance Law in the United States," Report for the Venice Commission of the Council of Europe (2009).
- "The Impact of Politics and Constitutional Law on Mass Litigation: The Evolution of Civil Liability in the U.S. and Beyond," 12th International Liability Forum 14 (Munich Re Group) (2008).
- · "The Law of Politics," 95 GEO. L. J. 1369 (2007).
- · "Declarative Sentences: Congress Has the Power to Make and End War Not Manage It," SLATE MAGAZINE, March 5, 2007 (with Noah Feldman).
- "Create a National Voter Registration List," BOSTON REVIEW, Vol. 31, No. 5, Sept-Oct. 2006, at 21.
- "Democracy Isn't Built On One Election Alone," WASHINGTON POST, Jan. 23, 2005, at B01.
- "In Real Elections, There Ought to Be Competition," NEW YORK TIMES, Feb. 16, 2002, at A19.
- "The Court's Legacy for Voting Rights," NEW YORK TIMES, DEC. 14, 2000, at A39.
- · "Charles Alan Wright: The Scholar as Lawyer," in A TRIBUTE: CHARLES ALAN WRIGHT, THE MAN AND THE SCHOLAR (2000).
- "Due Process," International Encyclopedia of the Social and Behavioral Sciences (2000).
- "Political Fairness and Judicial Review," ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (1998).
- · "The Census and the Constitution," ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (1998).
- "Electoral Districting, Fairness and Judicial Review," ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (1998).
- · "Age Discrimination," ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (1998) (with E. Harris).
- The Destruction of Public Funding," TEXAS LAWYER, May 12, 1997, at 20 (with David Horan).
- · "All for One," THE NEW REPUBLIC, Nov. 18, 1996, at 10 (with Richard Pildes).
- "No Place for Political Gerrymandering," TEXAS LAWYER, Aug. 5, 1996 (with Richard Pildes).
- "Should There Be Rules of Procedure?," Leiden University, Institute of Anglo-American Law, Clifford Chance Distinguished Lecture Series (Feb. 1995).
- · "Conference: The Supreme Court, Racial Politics, and the Right to Vote: *Shaw v. Reno* and the Future of the Voting Rights Act, 44 AMERICAN UNIV. L. REV. 1 (1994).

- · "A Highly Visible Bloodletting," AUSTIN AMERICAN STATESMAN, Oct. 2, 1994 (Op-ed piece on redistricting).
- · "Race and Redistricting," 2 RECONSTRUCTION, No. 3 (1994).
- "The State of Voting Rights Law," 3 ISSUES IN NATIONAL AFFAIRS No. 1 (1993)(Paper prepared for the American Jewish Committee).
- "Remedial Options for the Selection of the Texas Judiciary," Report prepared for settlement negotiations in *LULAC/Houston Lawyers' Association v. State of Texas*, Jan. 14, 1993,
- · "Adjusting Census Data For Reapportionment: An Independent Role for the States," TEXAS LAWYER, March 18, 1991 (with A. Lichtman).
- "The 37.5 Percent Solution: 'Limited Voting' Could Rescue Judiciary," TEXAS LAWYER, March 5, 1990.
- "The Texas Judiciary and the Voting Rights Act: Background and Options," Report prepared for the Texas Policy Research Forum (1989).
- "The Generals Give Back Uruguay," Human Rights Report of the Lawyers' Committee for International Human Rights (1985)(with C. Estlund).

AMERICAN LAW INSTITUTE

Reporter, Principles of the Law: Aggregate Litigation (2010)

SELECTED LECTURES

- UNIVERSITY OF HOUSTON SCHOOL OF LAW, THE FRANKEL ENDOWED LECTURE, November 4, 2016: Outsourcing Politics: Political Parties and the Theory of the Firm
- · Indiana University School of Law, The Jerome Hall Endowed Lecture, February 18, 2016: The Emerging Rule of Reason in Voting Rights Law
- DUKE UNIVERSITY SCHOOL OF LAW, THE BRAINERD CURRIE MEMORIAL LECTURE, February 19, 2014: Ballot Bedlam
- · University of Houston Law Center, The John R. Brown Memorial Lecture, March 1, 2010: Judging in the Time of the Extraordinary
- BROWN UNIVERSITY, THE JANUS LECTURE, September 17, 2008: Was the New Deal A Good Deal?

 New Deal Constitutionalism Reexamined
- · OXFORD UNIVERSITY, THE HART MEMORIAL LECTURE, May 6, 2008: Democracy in Times of War
- · LEWIS & CLARK LAW SCHOOL, HIGGINS LECTURE, March 19, 2008: Meriwether Lewis, the Air Force,

and the Surge: The Problem of Constitutional Settlement

- · Drake Law Center Constitutional Law Distinguished Lecture, November 8, 2007: Democracy at War
- · JULIUS ROSENTHAL FOUNDATION SERIES LECTURES, Northwestern University School of Law, March 28 and 29, 2007: Fragile Democracies, and Contested Visions of Democracy
- ASTOR VISITING LECTURE, Oxford University, June 8, 2005: When Rights Break Down: U.S. Constitutional Responses in Times of National Security Crisis.
- · JAMES GOULD CUTLER LECTURE, William and Mary University School of Law, Feb. 19, 2004: *The Endangered Center in American Politics*.
- · SIBLEY LECTURE, University of Georgia School of Law, March 16, 2000: Political Parties, the Constitution and Democratic Competition.
- MASON LADD LECTURE, Florida State University School of Law, March 15, 2000: Why Do Cases Get Litigated?

SELECTED PROFESSIONAL ACTIVITIES

- · SENIOR LEGAL COUNSEL, Obama for America Campaign, 2008, 2012.
- · FELLOW, American Academy of Arts and Sciences.
- · COUNCIL, American Law Institute.
- · REPORTER, Principles of Aggregate Litigation, American Law Institute.
- · MEMBER, Editorial Board, Foundation Press.
- · BOARD OF DIRECTORS, Brennan Center for Justice at NYU School of Law, 2006-2011.
- · INTERNATIONAL ADVISORY BOARD, CIPPEC Centro de Implementación de Políticas Públicas para la Equidad y el Crecimiento, Buenos Aires, Argentina, 2012-present.
- FUTURE CLAIMS REPRESENTATIVE, Bankruptcy Trust of TH Agriculture and Nutrition, Inc, Representative for future asbestos claimants in \$900 million bankruptcy trust.
- · ADVISOR, Restatement Third Employment Law, American Law Institute.
- MEMBER, Judicial Selection Task Force of the Texas Commission on Judicial Efficiency (1995-1997).
- · LEGAL CONSULTANT, National Research Council, Panel on Census Requirements in the Year 2000 and Beyond (1993-1995).
- · COUNSEL, Travelers v. Bailey, U.S. Supreme Court, 2009. Argued for Respondents.
- · CONSULTANT, State of Florida, *Johnson v. DeGrandy*, (1994) (Florida legislative redistricting litigation).
- · COUNSEL to State of Texas for 1992 Redistricting in *Richards v. Terrazas*, No. 91-1270 (U.S. Supreme Court), and *Texas v. United States*, No. 91-2383 (D.D.C.). (1992-1993).
- · Special Master Taskforce for Eastern District of Texas Asbestos Litigation, *Cimino v. Raymark Industries, Inc.*, 751 F.Supp. 649 (E.D. Tex. 1990). (1989-1990).
- BOARD OF DIRECTORS, Lawyers' Committee for Civil Rights Under Law of Texas. (1991-1995); Executive Committee of the Board of Directors (1993-1995).
- COUNSEL to State of Texas and University of Texas Law School in *Hopwood v. State of Texas and Regents of the University of Texas System*, No. 92 CA 563 (W.D. Texas, 1992)(challenge to School of Law affirmative action admissions practices)(1992-2001).

AWARDS

- · Roscoe Pound Institute Appellate Advocacy Award 2015 (Inaugural Selection)
- Podell Distinguished Teaching Award, New York University School of Law 2009
 Annual student-selected award to four faculty members
- · Willis L. M. Reese Prize for Teaching, Columbia Law School 2004
 Annual student-selected award to one faculty member
- Texas Excellence Teaching Award in the School of Law, Univ. of Texas School of Law, 1994 Annual student-selected award to one faculty member
- James W. Vick Texas Excellence Awards in Academic Advising, Univ. of Texas, 1994
 University-Wide Award
- Open Door Award, Univ. of Texas School of Law 1992
 Law School Student Award

PERSONAL

- · Born: Sept. 15, 1954, Buenos Aires, Argentina
- · Married to Prof. Cynthia Estlund, New York University School of Law
- · Children: Jessica, Lucas

EXHIBIT 4

CYNTHIA L. ESTLUND

New York University School of Law 40 Washington Square South · New York, NY 10012 Tel: 212-998-6184 · E-mail: ce21@nyu.edu

Current Academic Position

New York University School of Law

Catherine A. Rein Professor of Law (July 2006 to present)

Visiting Professor (Spring 2006)

Courses: Labor Law, Employment Law, Torts, Property, Transnational Labor Law, Comparative Labor and Employment Law

Prior Academic Positions

Harvard Law School

Louis D. Brandeis Visiting Professor (Fall 2008)

Columbia Law School

Isidore and Seville Sulzbacher Professor of Law (2004 to 2006) Professor of Law (1999 to 2004) Samuel J. Rubin Visiting Professor of Law (1998-99) Vice Dean for Research (2004-05)

University of Texas School of Law

Leroy G. Denman, Jr., Regents Professor of Law (1994-1999) Professor of Law (1993-1994) Assistant Professor of Law (1989-93) Associate Dean for Academic Affairs (1995-1998)

Short-term teaching appointments:

Interdisciplinary Center (IDC), Hertzliya (Selected Topics in Labor & Employment Law), November 2013;

Nanjing University (Comparative Labor & Employment Law), May 2012

University of Melbourne School of Law, Masters in Law program (Corporate Governance and Employee Relations: Comparative Perspectives), May 2011

Education

Degrees:

Yale Law School, New Haven, CT: J.D. 1983; Notes Editor, YALE LAW JOURNAL

Lawrence University, Appleton, WI: B.A., *summa cum laude*, 1978 (Government); Phi Beta Kappa

Other:

- **J. Roderick MacArthur Fellowship** (Fall 1984): Independent study (w/ Samuel Issacharoff) of prosecution of human rights crimes in Argentina.
- **Thomas J. Watson Fellowship** (1978-79): Independent study of government programs for working parents in Sweden.
- **University of Lund**, Sweden (1979-80): Coursework in sociology (in Swedish)

Professional Experience

- **Bredhoff & Kaiser**, Washington, D.C.: Associate, December 1985 to June 1989. Practice areas: Labor and employment law
- **Sugarman & Associates**, Philadelphia, PA: Associate, January to November 1985. Practice area: General litigation
- **Honorable Patricia M. Wald**, Judge, U.S. Court of Appeals for the District of Columbia: Law Clerk, July 1983 to July 1984

Scholarly Publications

Books:

- A New Deal for China's Workers? (Harvard University Press, 2017)
- RESEARCH HANDBOOK ON THE ECONOMICS OF LABOR AND EMPLOYMENT LAW (Edward Elgar Publishing, Ltd., 2012) (co-edited w/ Michael Wachter)
- REGOVERNING THE WORKPLACE: FROM SELF-REGULATION TO CO-REGULATION (Yale University Press, 2010)
- REGULATING LABOUR IN THE WAKE OF GLOBALIZATION: NEW CHALLENGES, NEW INSTITUTIONS (Hart Publishing, 2007) (co-edited w/ Brian Bercusson)
- WORKING TOGETHER: HOW WORKPLACE BONDS STRENGTHEN A DIVERSE DEMOCRACY (Oxford University Press, 2003)

Articles and Book Chapters:

- *The "Constitution of Opportunity" in Politics and the Courts,* 94 Texas Law Review 1447 (2016)
- Are Unions a Constitutional Anomaly?, 114 MICHIGAN LAW REVIEW 169-234 (2015)
- Will Workers Have a Voice in China's "Socialist Market Economy"? The Curious Revival of the Workers Congress System, 36 Comparative Labor Law & Policy Journal 69-105 (2015)

- How the Workplace Constitution Ties Liberals and Conservatives in Knots, 29
 Texas Law Review 1137-61 (2015), reviewing Sophia Z. Lee, The Workplace
 Constitution from the New Deal to the New Right (Cambridge Univ. Press, 2014)
- Working Together Transnationally, forthcoming in RESEARCH HANDBOOK ON TRANSNATIONAL LABOUR LAW (Adelle Blackett & Anne Trebilcock, eds., Edward Elgar, 2015)
- Freedom of Association and the Right to Contest: Getting Back to Basics, in Voices AT Work (Tonia Novitz & Alan Bogg, eds., 2014) (co-authored with Alan Bogg)
- Will Labour Unrest Lead to More Democratic Trade Unions in China?, in CHINA AND ILO FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK (Roger Blanpain, Ulla Liukkunen, & Yifeng Chen, eds.) (Kluwer Press, 2014) (co-authored with Seth Gurgel)
- Extending the Case for Workplace Transparency to Information about Pay, 4 UC-IRVINE LAW REVIEW 781-89 (2014)
- The Development of Employment Rights and the Management of Workplace Conflict, in Oxford Handbook of Conflict Management in Organizations (William K. Roche, Paul Teague, and Alexander J.S. Colvin, eds., 2014)
- Comparative Labor and Employment Law in Developed Market Economies:
 Fostering Market Efficiencies or Repairing Market Failures? (co-authored with Silvia Bonfanti & Nuno Garoupa), in RESEARCH HANDBOOK IN COMPARATIVE LABOR LAW (Matthew Finkin & Guy Mundlak, eds., 2016)
- Individual Employee Rights at Work, in Comparative Employment Relations in the Global Political Economy (Carola Frege & John Kelley, eds., 2013)
- Workplace Democracy for the 21st Century? Rethinking a Norm of Worker Voice in the Wake of the Corporate Diversity Juggernaut, 14 NEVADA LAW JOURNAL 309-21 (2014)
- Citizens of the Corporation? Workplace Democracy in a Post-Union Era, forthcoming in CORPORATIONS AND CITIZENSHIP (Greg Urban, ed., 2013)
- Labor Law Reform Again? Reframing Labor Law as a Regulatory Project, 16 NEW YORK UNIVERSITY JOURNAL OF LEGISLATION AND PUBLIC POLICY 383-400 (2013)
- Introduction: The Economics of Labor and Employment Law (with Michael Wachter), in Research Handbook on the Economics of Labor and Employment Law, above, pp. 3-19
- Why Workers Still Need a Collective Voice in the Era of Norms and Mandates, in Research Handbook on the Economics of Labor and Employment Law, above, pp. 463-94)

- Enforcement of Private Transnational Labor Regulation: A New Frontier in the Anti-Sweatshop Movement?, in The Enforcement of Transnational Private Regulation (Fabrizio Cafaggi, ed., 2012)
- The Battle over the Board and the Future of Employee Voice in the U.S., NEW LABOR FORUM (Spring 2012)
- A Return to Governance in the Law of the Workplace (and the Question of Worker Participation), forthcoming in Oxford Handbook of Governance (David Levi-Faur, ed., 2011)
- Just the Facts: The Case for Workplace Transparency, 63 Stanford Law Review 351-407 (2011)
- "It Takes A Movement" But What Does It Take to Mobilize the Workers (In the U.S. and China)?, 15 EMPLOYEE RIGHTS & EMPLOYMENT POLICY JOURNAL 507-19 (2011)
- Reconstituting Employee Representation in an Era of Self-Regulation (in REGULATING LABOUR, above)
- Freeing Employee Choice: The Case for Secrecy in Union Organizing and Voting, 123 HARVARD LAW REVIEW FORUM 10 (2010) (online comment on Benjamin I. Sachs, Enabling Employee Choice: A Structural Approach to the Rules of Union Organizing, 123 HARVARD LAW REVIEW 655 (2010)
- Corporate Self-Regulation and the Future of Workplace Governance, 74 CHICAGO-KENT LAW REVIEW 617 (2009)
- Who Mops the Floors at the Fortune 500? Corporate Self-Regulation and the Low-Wage Workplace, 12 Lewis & Clark Law Review 671-93 (2008)
- Free Speech Rights that Work at Work: From the First Amendment to Due Process, 54 UCLA Law Review 1463-96 (2007)
- Something Old, Something New: Governing the Workplace by Contract Again, 28 COMPARATIVE LABOR LAW & POLICY JOURNAL 351-75 (2007)
- Harmonizing Work and Citizenship: A Due Process Solution to a First Amendment Problem, 2005 SUPREME COURT REVIEW 115-72 (2007)
- Between Rights and Contract: Arbitration Agreements and Non-Compete Covenants as a Hybrid Form of Employment Law, 155 University of Pennsylvania Law Review 379-445 (2007)
- Are Unions Doomed to Being a "Niche Movement" in a Competitive Economy? A Response to Professor Wachter, 155 UNIVERSITY PENNSYLVANIA LAW REVIEW PENNUMBRA 101-08 (2007), available at http://www.pennumbra.com/
- Working Together Under Antidiscrimination Law: Paradoxes and Possibilities, in NYU SELECTED ESSAYS ON LABOR AND EMPLOYMENT LAW, VOLUME 3: BEHAVIORAL

- ANALYSIS OF WORKPLACE DISCRIMINATION (Kluwer Law International, 2007) (Mitu Gulati & Michael Yelnosky, eds.)
- The Story of Washington Aluminum: Labor Law as Employment Law, in EMPLOYMENT LAW STORIES 175-211 (Samuel Estreicher & Gillian Lester, eds., 2007)
- The Death of Labor Law?, 2 ANNUAL REVIEW OF LAW & SOCIAL SCIENCES 105-23 (2006); reprinted in ICFAI JOURNAL OF EMPLOYMENT LAW [India], April 2007
- Is the NLRA an Outmoded Statute in the 21st Century?, 57 LABOR LAW JOURNAL 148-57 (2006)
- *The Story of* Price Waterhouse v. Hopkins, in EMPLOYMENT DISCRIMINATION STORIES 65-103 (Joel W. Friedman, ed., 2006)
- Rebuilding the Law of the Workplace in an Era of Self-Regulation, 105 COLUMBIA LAW REVIEW 319-404 (2005)
- Working Together: Crossing Color Lines at Work, 46 LABOR HISTORY 79-98 (2005) (awarded 2005 Labor History Prize for Best Article on a U.S. topic)
- Putting Grutter to Work: Diversity, Integration, and Affirmative Action in the Workplace, 26 Berkeley Journal of Labor & Employment Law 1-46 (2005)
- Taking Grutter to Work, 7 THE GREENBAG 215 (2004)
- Reflections on the Declining Prestige of American Labor Law Scholarship, 23
 COMPARATIVE LABOR LAW & POLICY JOURNAL 789 (2003)
- The Ossification of American Labor Law, 102 COLUMBIA LAW REVIEW 1527-1612 (2002)
- The Supreme Court's Labor and Employment Cases of the 2001-2002 Term, 18 THE LABOR LAWYER 291-335 (2002)
- How Wrong Are Employees About Their Rights, and Why Does It Matter?, 77 NEW YORK UNIVERSITY LAW REVIEW 6-35 (2002)
- An American Perspective on Fundamental Labor Rights, in ROBERT HEPPLE, ED., SOCIAL AND LABOUR RIGHTS IN A GLOBAL CONTEXT (Cambridge Univ. Press 2002)
- Working Together: The Workplace, Civil Society, and the Law, 89 GEORGETOWN LAW JOURNAL 1-96 (2000); reprinted in NYU SELECTED ESSAYS ON LABOR AND EMPLOYMENT LAW, VOLUME 2, pp. 29-130 (David Sherwyn & Michael Yelnosky, eds.)
- Work and Family: How Women's Progress at Work (and Employment Discrimination Law) May Be Transforming the Family, 21 Comparative Labor Law & Policy Journal 467-500 (2000).

- The Changing Workplace as a Locus of Integration in a Diverse Society, 2000 COLUMBIA BUSINESS LAW REVIEW 331-69 (2000)
- Harassment Law and the First Amendment: A Window on the Role of the Workplace in a Democratic Society, in Samuel Estreicher, ed., Sexual Harassment in the Workplace: Proceedings of New York University 51ST Annual Conference on Labor 363-90 (Kluwer Press, 1999)
- The Workplace in a Racially Diverse Society: Preliminary Thoughts on the Role of Labor and Employment Law, 1 University of Pennsylvania Journal of Labor & Employment Law 49-85 (1998)
- Freedom of Expression in the Workplace and the Problem of Discriminatory Harassment, 75 Texas Law Review 687-777 (1997)
- The Architecture of the First Amendment and the Case of Discriminatory Workplace Harassment, 72 Notre Dame Law Review 1361-89 (1997)
- Wrongful Discharge Protections in an At-Will World, 74 TEXAS LAW REVIEW 1655-92 (1996)
- Free Speech and Due Process in the Workplace, 71 Indiana Law Journal 101-151 (1995)
- Women in the Workplace: Preface, 4 Texas Journal of Women & the Law 1 (1995) (preface, Symposium Issue on Women in the Workplace)
- Labor, Property, and Sovereignty after Lechmere, 46 STANFORD LAW REVIEW 305-359 (1994)
- Economic Rationality and Union Avoidance: Misunderstanding the National Labor Relations Act, 71 Texas Law Review 921-992 (1993)
- What Do Workers Want? Employee Interests, Public Interests, and Freedom of Expression Under the National Labor Relations Act, 140 University of Pennsylvania Law Review 921-1004 (1992)
- Speech on Matters of Public Concern: The Perils of an Emerging First Amendment Category, 59 George Washington Law Review 1-59 (1990) (excerpted in John Garvey & Frederick Schauer, The First Amendment: A Reader 107-110 (1992))
- Dictatorship on Trial: Prosecution of Human Rights Violations in Argentina, 10 YALE JOURNAL OF INTERNATIONAL LAW 118-150 (1985) (with E.F. Mignone and S. Issacharoff)
- Labor Picketing and Commercial Speech: Free Enterprise Values in the Doctrine of Free Speech, 91 Yale Law Journal 938-960 (1982) (Note)

Selected Recent Lectures and Presentations

"A New Deal for China's Workers?," The Stewart Lecture on Labor and Employment Law, Indiana University, Maurer School of Law (September 21, 2016)

- "'Bowling Alone,' Living Apart, but Working Together," Milton Konvitz Lecture, Cornell University, Industrial and Labor Relations School (April 27, 2015)
- "Employer Self-Regulation: Making a Virtue of Necessity?," Innis Christie Lecture in Labour and Employment Law, Schulich School of Law, Dalhousie University, Halifax, Nova Scotia (October 16, 2014)
- "A 'New Deal' for Chinese Workers? A Comparative Look at Labor in China," presented with Prof. Mary Gallagher at Hopkins China Forum, Shanghai (May 20, 2013)
- "Reflections on the Rise and Fall of Trade Unions and Strikes in the U.S.," presented at East China Normal University (May 22, 2013); Nanjing University, School of Law (May 21, 2013); Shanghai Normal University, Shanghai (May 20, 2013); China Institute of Industrial Relations, Beijing (May 16, 2013); Chinese Academy of Social Sciences, International Symposium on Labor Relations and Collective Bargaining in the Age of Globalization, Beijing, China (July 22, 2012)
- "What is Electoral Democracy for in China? The Case of Trade Union Elections," presented at University of Texas School of Law (March 7, 2013); as Douglas Cunningham Visitor, Queen's University Faculty of Law, Kingston, Ontario (Jan. 28, 2013); at Annual Meeting of AALS, New Orleans (Jan. 4, 2013); at Annual Meeting of Law & Society Association, Honolulu, Hawaii (June 5, 2012)
- "Free Speech Rights that Work at Work," presented (by Skype) at Volda Academy, Volda, Norway, Ytringsfrihetsseminaret (temaet: ytringsfrihet i arbeidslivet) (Seminar on Free Speech theme: free speech in the workplace) (Feb. 7, 2013)
- "Can Collective Bargaining Work in China? Some Labor Relations Dilemmas," presented at research seminar on China and ILO Fundamental Principles and Rights at Work, University of Helsinki, Helsinki, Finland (Jan. 18, 2013)
- "Democracy in and about the Workplace," presented at University of Nevada, Las Vegas, William S. Boyd School of Law, conference on Democracy and the Workplace (Feb. 24, 2012)
- Chinese labor relations and labor law, NYU School of Law & US-Asia Law Institute, 17th Annual Timothky A. Gelatt Dialogue on the Rule of Law in Asia, China's Quest for Justice (November 7, 2011)
- Recent developments at the NLRB, panel presentation at Suffolk University School of Law, 38th Annual Robert Fuchs Labor Law Conference (October 20, 2011)
- "Public Sector Unions and Democracy," presented at Northwestern University School of Law, Conference on Public Sector Unionization (October 14, 2011)
- Testimony at "Hearing on Emerging Trends at the National Labor Relations Board," Before the House Committee on Education and the Workforce, Subcommittee on Health, Employment, Labor and Pensions (February 11, 2011)

- "China's Labor Question: Will One Hundred Flowers Bloom this Time Around?," presented at National Labor Relations Board headquarters (May 2011); University of Iowa School of Law (April 2011); University of Toronto School of Law (November 2010); and Rutgers University, Division of Global Affairs (October 2010)
- "Just the Facts: The Case for Workplace Transparency," presented at University of Melbourne Law School (April 2010), and at the Annual Meeting of the Law and Society Association, Chicago, IL (May 2010)
- "The Fall and Rise of Workplace Governance in the U.S.," presented at Shanghai Normal University (December 2010), at International University of Business and Economics School of Law, Beijing, China, and at China Institute of Industrial Relations, Beijing, China (March 2010)
- "The Fall and Rise of Self-Governance at Work," presented at University of Louisville, Brandeis School of Law, as the Carl A. Warns, Jr. Lecture, June 18, 2009
- "Corporate Self-Regulation and the Future of Workplace Governance," presented at the Chicago-Kent College of Law as the Annual Kenneth M. Piper Lecture, April 8, 2008
- Testimony on Employee Free Choice Act before Senate Health, Education, Labor & Pensions Committee, March 27, 2007
- "Who Mops the Floors at the Fortune 500? Corporate Self-Regulation and the Low-Wage Workplace," presented at the Lewis & Clark College of Law as the Annual Higgins Lecture, March 18, 2008
- "Putting Law to Work: The Resurrection of Workplace Self-Governance?," presented at Case Law School as The Rush McKnight Labor Law Lecture, Feb. 28, 2007
- "Corporate Self-Regulation and the Future of Workplace Governance," presented at NYU School of Law as the Inaugural Lecture for the Catherine A. Rein Chair in Law, Jan. 29, 2008

Professional Activities & Honors

Lawrence University Alumni Association, Board of Directors (from 2011)

The Labor Law Group: Executive Committee (from 2012); Member (from 2007)

University of Melbourne Centre for Employment and Labour Relations Law: Member, Advisory Board (from 2011); Visiting Professor, May 2011

American Association of University Professors, Litigation Committee (from 2010)

Obama Presidential Transition Team: Leader of agency review team reviewing National Labor Relations Board (Nov. 2008 to January 2009)

Podell Distinguished Teaching Award, NYU School of Law (2008)

Annual Higgins Visitor, Lewis & Clark College of Law (2008)

Samuel M. Kaynard Award for Excellence in the Fields of Labor & Employment Law, Hofstra University School of Law (2008)

American Law Institute: Member (from 2007); Advisor, Restatement of the Law 3d, Employment Law (from 2004)

American Association of Law Schools, Section on Labor Relations and Employment Law: Chair (2006); Chair-Elect (2005); Secretary (2004).

American Bar Association, Section on Labor and Employment Law: Secretary (2001-02)

Women's Advocacy Project, Austin, Texas: Board Member (1991-95); Chair (1993-94)

Personal

Married to Samuel Issacharoff Children: Jessica E. Issacharoff & Lucas E. Issacharoff

(Revised September 8, 2016)

EXHIBIT X

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

DECLARATION OF CHARLES S. ZIMMERMAN IN SUPPORT OF CO-LEAD CLASS COUNSEL'S PETITION FOR AN AWARD OF ATTORNEY'S FEES AND REIMBURSEMENT OF COSTS AND EXPENSES

Charles S. Zimmerman declares as follows pursuant to 28 U.S.C. § 1746:

1. I am a Partner of the law firm of Zimmerman Reed LLP. I submit this declaration in support of Co-Lead Class Counsel's Petition for an Award of Attorney's Fees and Reimbursement of Costs and Expenses in connection with and for services rendered and expenses incurred for the common benefit of the Settlement Class in the above-captioned multidistrict litigation ("Action") from the inception of the litigation through July 15, 2016. I

have personal knowledge of the matters set forth in this declaration and, if called upon, I could and would testify competently thereto.

2. I am a member of the Plaintiffs' Steering Committee in this matter. My law firm was one of the founding members of the NFL Concussion Litigation. We currently represent over 400 retired NFL players. Our investigation of the factual and legal claims in this action started in early 2010, when several retired NFL players we were representing in the publicity rights case *Dryer*, *et al v. National Football League*, began detailing to us the neurological difficulties they were experiencing and asking questions about the blows to the head they suffered while active players. A pattern began to emerge and we decided to further investigate the NFL's potential liability to our clients.

The issues described to us by our NFL clients in 2010 had particular significance to my firm. A former law partner at our firm, retired NFL player Fred McNeill, exhibited similar symptoms. Fred was a trusted partner and good friend, but we could not understand his declining cognitive performance. When we reached out to the many hundreds of our then-clients who were retired NFL football players, the response was overwhelming. Nearly all of our clients reported some symptoms of neurological illness and a desire to participate in seeking a remedy against the NFL.

Our initial investigation of potential claims against the NFL involved several conferences with Dr. Bennet Omalu and other key figures in the science of NFL head injuries. These meetings occurred before the commencement of any litigation and these coordinated proceedings. By mid-2011, we decided to fully pursue the matter. We filed our first complaint in December 2011, and filed numerous subsequent complaints on behalf of retired NFL players.

With several law firms filing related complaints, we convened and participated in the first organizational meeting of counsel in this matter with the Hausfeld and Anapol Weiss firms, at Hausfeld's Washington DC offices on December 5, 2011. There, we discussed and decided upon our desire to advocate for MDL status of the action in the Eastern District of Pennsylvania before the Hon. Anita B. Brody. Those efforts ultimately came to fruition upon the ruling of the Judicial Panel on Multidistrict Litigation, which created this MDL.

After the formation of the MDL, I sought and was appointed to the Plaintiffs' Steering Committee. My firm and I worked at the request of Lead Counsel on a variety of matters, including researching and drafting memoranda regarding the NFL's preemption defense, meeting with experts regarding a medical monitoring protocol, participating in leadership strategy meetings and activities, coordinating the participation of players for public relations and other efforts, providing information necessary for settlement efforts, and, perhaps most significantly, chairing a subcommittee on class member representation and ethics issues. In this role with the ethics subcommittee, my firm helped to retain a consulting ethics expert on behalf of the MDL, Professor John Burkoff, and coordinated the efforts to address class member confusion and ethical issues created by misleading advertising campaigns aimed at NFL retired players. We worked with lead counsel and many other MDL counsel, the Garretson group, and Settlement Administrator BrownGreer to address issues surrounding class member confusion and ethics.

My firm and I also worked extensively with our clients and other leadership counsel to gain support and approval of the Settlement in this matter at each step. We will continue this work to support implementation of the Settlement for the benefit of all retired players, including our hundreds of clients.

- 3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of common benefit time spent by the attorneys and professional support staff of my firm who were involved in, and billed fifty or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates of such personnel in their final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended in preparing this application for attorney's fees and expenses has been excluded.
- 4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as they charge for non-contingent work that is paid on an hourly basis, or for rates paid to attorneys of comparable experience and reputation in the relevant legal market.
- 5. The total number of hours expended on the common benefit of this Action by my firm during the time period is 1,106.50 hours. The total lodestar for my firm for those hours is \$885,907.25, consisting of \$870,727.25 for attorneys' time and \$15,180.00 for professional support staff time.
- 6. My firm's lodestar figures are based solely upon my firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.
- 7. As detailed in Exhibit 2 hereto, my firm is seeking reimbursement of a total of \$135,545.72 in common benefit expenses incurred in connection with the prosecution of this Action. These expenses are reflected on the books and records of my firm. These books and

records are prepared from expense vouchers, check records, and other source material, and are an

accurate record of the expenses incurred.

8. With respect to the standing of my firm to share in an award of fees, costs, and

expenses, attached hereto as Exhibit 3 is a biography of my firm, including the attorneys in my

firm who were principally involved in this Action.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 6, 2017, at Minneapolis, Minnesota.

s/ Charles S. Zimmerman

Charles S. Zimmerman

EXHIBIT 1

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

ZIMMERMAN REED LLP

LODESTAR REPORT

Inception through July 15, 2016

NAME	HOURS	HOURLY RATE	AMOUNT
PARTNERS:			
Charles S. Zimmerman	580.75	\$900	\$522,675.00
J. Gordon Rudd, Jr.	210.20	\$795	\$167,109.00
David M. Cialkowski	95.30	\$695	\$66,233.50
Brian C. Gudmundson	165.05	\$695	\$114,709.75
PARALEGALS:			
Tina M. Olson	55.20	\$275	\$15,180.00
TOTALS:	1106.50		\$885,907.25

EXHIBIT 2

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 12-md-2323-AB

ZIMMERMAN REED LLP

COST AND EXPENSE REPORT

Inception through July 15, 2016

NUMBER	CATEGORY	AMOUNT
1	Assessments	\$100,000.00
2	Commercial Copies	
3	Computerized Research	\$652.30
4	Court Reporters/Transcripts	
5	Expert Services	\$1887.50
6	Facsimile	
7	Filing & Service Fees	
8	In-House Copies	\$1127.80
9	Long Distance Telephone	\$347.46
10	Postage/Express Delivery	\$1,473.44
11	Travel/Meals/Lodging	\$30,024.83
12	Miscellaneous	\$32.39
TOTAL EXPENSES		\$135,545.72

EXHIBIT 3



MINNEAPOLIS

Zimmerman Reed, LLP 1100 IDS Center, 80 South 8th Street Minneapolis, MN 55402 t: 612.341.0400 f: 612.341.0844 zimmreed.com

LOS ANGELES

Zimmerman Reed, LLP 2381 Rosecrans Avenue, Suite 328 Manhattan Beach, CA 90245 t: 877.500.8780 f: 877.500.8781 zimmreed.com

PHOENIX

Zimmerman Reed, LLP 14646 North Kierland Blvd Suite 145 Scottsdale, Arizona 85254 t: 480.348.6400 f: 480.348.6415 zimmreed.com

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FIRM PRACTICE AND ACHIEVEMENTS

Zimmerman Reed is a nationally recognized leader in complex and class action litigation and has been appointed as lead counsel in some of the largest and most complex cases in federal and state courts across the country. The firm was founded in 1983 and has successfully represented thousands of consumers and injured individuals nationwide in significant and demanding cases. The firm's practice includes a wide range of legal issues and complex cases involving consumer fraud, ERISA, shareholder actions, environmental torts, pharmaceutical drugs, dangerous or defective products, human rights violations, and privacy litigation. Since 2010, Zimmerman Reed has earned a first-tier "Best Law Firm" ranking released by U.S. News & World Report.

ZIMMERMAN REED ATTORNEYS

Carolyn G. Anderson is a Managing Partner at Zimmerman Reed and leads the firm's Securities & Financial Fraud, Antitrust, and Public & Attorney General practice groups.

Carolyn has successfully represented small investors, institutional clients, and states in individual and nationwide securities fraud, ERISA, and antitrust actions. She has served in a leadership role in obtaining significant recoveries in both individual actions and multi-state actions.

Carolyn is currently serving as Lead Counsel in a case representing the State of New Mexico. In that case, the State is alleging antitrust and unfair practices against Visa and MasterCard. Carolyn also served as Lead Counsel in an antitrust action, working with a coalition of four Attorneys General, against manufacturers of LCD displays. The case was filed in state court but removed to federal court under the Class Action Fairness Act (CAFA). After opposing this removal at the district court and the Fifth Circuit, the State petitioned the U.S. Supreme Court. The Supreme Court ruled unanimously in favor of Mississippi, reversing the Fifth Circuit's decision and clarifying the standard for removal of state actions under CAFA. *Mississippi ex rel. Hood v. AU Optronics*, 134 S. Ct. 736 (2014).

Carolyn also represents the Office of Attorney General for the State of Mississippi, defending that Office in an action brought by Google, challenging the State's authority to issue a Civil Investigative Demand (CID). Google attempted to enjoin the Attorney General's CID authority and the district court granted that motion. In April, 2016, the State prevailed and the district court's decision was reversed by the Fifth Circuit.

Carolyn was also appointed Co-Lead Counsel on behalf of investors alleging losses due to Wells Fargo's securities lending program. The case settled for \$62 million, two days before trial was set to commence. She serves as Interim Co-Lead Counsel in an ERISA matter pending in the District of Minnesota, against fiduciaries of U.S. Bancorp Pension Plan for violations of ERISA. Carolyn also served as Class Counsel on behalf of investors who had purchased bond funds from Morgan Keegan in a lawsuit that arose from the collapse of three mutual funds. The case also involved the auditor as a defendant. In 2016, a \$125 million settlement was reached with the assistance of mediator Layn Phillips, a former U.S. Attorney and former United States District Judge.

In prior representation, Carolyn represented large groups of investors with significant losses involving Merrill Lynch, AIG, Boston Scientific, and Lehman Brothers. Carolyn also led a legal team in a case brought by investors against American Express Financial Advisors, challenging that company's practices and breaches of fiduciary duty with its investing customers. The case, brought under the Investment Advisor Act, resulted in a \$100 million settlement. Carolyn also successfully represented Midwest farmers/shareholders who challenged an ethanol plant's merger with Archer Daniels Midland; she was appointed Class Counsel in that matter. The case was resolved weeks prior to trial. Carolyn was also appointed Lead Counsel in a securities fraud lawsuit involving Boston Scientific, representing a public pension fund and a certified class.

In addition to serving in positions of leadership in investor protection litigation, Carolyn currently represents *pro bono* one hundred not-for-profit organizations related to their losses from the \$3.6 billion Petters Ponzi scheme, centered in Minnesota. She was appointed by the federal judge to serve as Assistant Liquidating Trustee under the supervision of the Court and the Liquidating Trustee for assets being distributed to some of those investors. In *U.S. v. Petters*, No. 08-cv-05348 (D. Minn.), the Firm worked with the Department of Justice and the courtappointed receiver, to successfully recover and distribute millions of dollars to victims pursuant to a settlement with one of the Petters financiers.

Carolyn maintains strong ties with the National Association of Attorneys General, individual state Attorneys General, state pension fund officers, and other institutional investors. She is a frequent lecturer at colleges and law schools, and has served as a legal education faculty member on the topics of complex litigation, legal ethics, the 2008 financial crisis, and securities law.

Carolyn currently serves as a board member and Chairperson for Children's Shelter of Cebu, an interdenominational ministry for abandoned and neglected children. She also serves as a board member with Bloomberg Law on its Litigation Innovation Board.

Carolyn graduated cum laude from Trinity College, where she received a Bachelor of Arts degree in Psychology. She received her law degree cum laude from Hamline University School of Law where she was a Dean's Scholar, received the Cali Award for Excellence in Constitutional Law, and served on Hamline Law Review, where her case note article was selected for publication. Carolyn also studied law at Hebrew University in Jerusalem, Israel in course-work focusing on Law, Religion, & Ethics. Carolyn was previously honored as Rising Star of Law and, in 2014, 2015, and 2016, she was recognized as a Super Lawyer by her peers in Minnesota.

Carolyn is admitted to practice before, and is a member in good standing of, the Bar of the State of Minnesota, the United States District Court for the District of Minnesota, the Court of Appeals for the Eighth Circuit and the First Circuit, and the U.S. Supreme Court. In addition to these courts, Carolyn works on cases with local counsel nationwide. She is a member of the Federal Bar Association, the American Association for Justice, the Minnesota Bar Association, and the Hennepin County Bar Association.

Hannah P. Belknap is an associate with Zimmerman Reed, working in the firm's Los Angeles, California office. Hannah focuses her practice on consumer class actions and complex litigation, including the areas of Consumer Protection and Employee Rights & Overtime. She currently represents consumers who allege Maxim Healthcare Services violated their rights under the federal Fair Credit Reporting Act by unlawfully procuring consumer reports as part of their employment application, as well as Maxim employees who were not paid minimum wages for all of the services they provided. Hannah is part of a team of lawyers representing consumers who allege Hain Celestial Seasonings falsely advertises its teas as 100% Natural, when they actually contain pesticides and other carcinogens. She also represents mortgage borrowers who were charged unlawful kickbacks through a nationwide force-placed homeowner's insurance scheme.

Hannah is a graduate of the University of the Pacific, McGeorge School of Law where she earned her JD with a Business Law Concentration. She was the recipient of the Witkin Award for Academic Excellence for Legal Research and Writing and attended her law school's Salzburg, Austria Summer Program taught by Supreme Court Associate Justice Anthony M. Kennedy. In 2012, Hannah was a summer intern in Washington D.C. working in the Office of the General Counsel of the Commodity Futures Trading Commission (CFTC). Prior to law school, Hannah attended the University of California, Santa Barbara, earning her Bachelor of Arts degree in Philosophy and Law and Society. Hannah is licensed to practice law in California.

David M. Cialkowski is a partner with Zimmerman Reed, and dedicates a substantial portion of his practice to the area of complex and mass tort litigation, with a primary focus on consumer protection and products liability litigation.

David was a member of the legal team that represented the Mississippi Attorney General's Office in Mississippi ex rel. Hood v. AU Optronics, 134 S. Ct. 736 (2014), an antitrust case against manufacturers of LCD displays in which the Court held that an attorney general's parens patriae case is not a "mass action" under the Class Action Fairness Act. The Supreme Court ruled unanimously in Mississippi's favor. He served as a member of the Plaintiffs' Steering Committee in In re Apple iPhone 3G and 3GS "MMS" Marketing and Sales Practices Litigation, a consumer protection class action, MDL 2116, based in New Orleans, Louisiana. He worked extensively on the Levaquin MDL trial team on behalf of clients who experienced tendon ruptures and tears after taking the popular Johnson & Johnson antibiotic. He also served as court-appointed co-lead counsel in In re Dockers Roundtrip Airfare Promotion Sales Practices Litigation, a consumer protection class action based in the U.S. District Court for the Central District of California. David has worked extensively on behalf of plaintiffs in In re St. Jude Silzone Heart Valves Product Liability Litigation, MDL 1396. He has also contributed substantially to pretrial summary judgment and class certification briefing in the Fedex Ground Package Systems employment status litigation, MDL 1700. David represented residents of Minot, North Dakota, in In re Soo Line Railroad Company Derailment of January 18, 2002 in Minot, N.D., who were injured by the toxic spill caused by the derailment of a Canadian Pacific Railway train, and helped draft federal legislation clarifying the scope, and thus reducing courts' application, of railroad preemption.

David earned his undergraduate degree from the University of Illinois's College of Liberal Arts and Sciences *cum laude* with High Distinction in the Department of English. Additionally, he participated in the honors program as a James Scholar, received the Elizabeth and Charles Ellis Merit Scholarship, and is a member of Phi Beta Kappa. David graduated from the University of Illinois College of Law, where he participated in the civil litigation clinic, was an editor for the Poetic Justice literary magazine, and was voted one of the top ten percent of university teaching assistants.

David is licensed to practice and a member in good standing, for the Bars of the State of Minnesota and the State of Illinois. His professional associations include membership in the Minnesota State Bar Association and Hennepin County Bar Association. David has been recognized as a Rising Star of Law from 2006–2008, 2010-2013 and 2015.

Brian C. Gudmundson is a partner and concentrates his practice on complex litigation and commercial class actions, including the areas of Consumer, Antitrust, Securities & Financial Fraud, Intellectual Property, and Sports Law. Brian represents individuals, businesses, and public and private institutional clients in a variety of complex cases.

Brian is a member of Plaintiffs Executive Committee in In Re General Mills Glyphosate Litigation, Case No. 16-cv-2869-MJD-BRT, asserting deceptive sales practices based upon alleged presence of glyphosate in products labeled "100% natural" and in Vikram Bhatia, D.D.S. v. 3M Company, 16-cv-01304-DWF-TNL, asserting claims on behalf of dentists and dental practices for allegedly defective dental crown products. Brian is a member of the plaintiffs steering committee in *In re*: Vizio, Inc. Consumer Privacy Litigation, MDL 2693, asserting violations of state and federal law for unlawful collection and sale of private consumer data. He is co-lead counsel in GLS Companies, et al. v. Minnesota Timberwolves Basketball LP, challenging implementation of paperless ticketing system and restrictions on transfer of game tickets on behalf of ticketholders. Brian is also a member of the plaintiffs steering committee in the Home Depot Data Breach MDL 2583 representing banks and credit unions in recovering losses. Brian represents retired NHL players alleging the National Hockey League minimized concussion risks from its players for decades. Brian is a member of the lead counsel team that achieved a \$39 million settlement on behalf of banks and other financial institutions in recovering losses due to the 2013 Target data breach. He is also a member of the lead counsel team that achieved a \$50 million settlement on behalf of retired National Football League players in a class action against the League for the unauthorized use of former players' identities to generate revenue. He represents hundreds of individual retired NFL players in claims arising from concussive head injuries suffered while NFL players. Presently, Brian represents MoneyGram Payment Systems, Inc. in claims against several Wall Street banks alleging over \$400 million of losses due to the fraudulent sale of securities containing undisclosed, toxic mortgage-based assets. He also specializes in claims under the RICO Act and currently represents multiple non-profit and faith-based investors pro bono in RICO claims arising from the \$3.5 billion Petters Ponzi scheme

Brian served as court-appointed co-lead counsel in *In Re: Dockers Roundtrip Airfare Promotion Sales Practices Litigation* (C.D. Cal.), which culminated in a multimillion dollar settlement on behalf of a nationwide class of consumers. In 2005, Brian was part of a securities litigation team that achieved a \$2.5 billion settlement against AOL-Time Warner on behalf of investors.

Brian received his BA from the University of Minnesota and his JD, *cum laude*, from the University of Minnesota Law School. Brian is admitted to the state courts of Minnesota, the U.S. District Courts for the District of Minnesota and the Northern District of Illinois, and the Tenth Circuit Court of Appeals. Brian has been recognized as a Rising Star of Law every year since 2010.

June P. Hoidal is an partner representing individuals and businesses who experienced losses as a result of securities and consumer fraud and antitrust violations. She is a member of the legal team representing the State of Mississippi in an antitrust action against manufacturers of LCD screens. Her work included assisting with briefing before the U.S. Supreme Court, which unanimously ruled in favor of Mississippi by finding the State's *parens patriae* action was not removable to federal court. *Mississippi ex rel. Hood v. AU Optronics*, 134 S. Ct. 736 (2014). June also represented investors alleging losses due to Wells Fargo's securities lending program, a case that settled two days before trial was set to commence for \$62 million. She currently represents the State of New Mexico in a matter against Visa and MasterCard, alleging antitrust and unfair practices; participants of the U.S. Bancorp Pension Plan alleging violations of ERISA; and investors of Medtronic in a shareholder derivative case.

Prior to joining the firm, June served as a judicial law clerk to the Honorable Arthur J. Boylan on the United States District Court for the District of Minnesota. She gained substantial experience following law school at two law firms in Washington, D.C. and Minneapolis, practicing in diverse subject areas, including contract disputes, franchise, products liability, insurance, and employment law.

June currently serves as a board member and as the lead co-chair of the Associates Campaign for The Fund for Legal Aid. She also currently serves as a member of the Advisory Board for the Minnesota Urban Debate League and the Publications Committee for the Bench & Bar of Minnesota. Previously, she served as a Commissioner for the City of Saint Anthony Parks Commission, and a member of the Diversity Committee and the Women in the Legal Profession Committee of the Minnesota State Bar Association. In addition, June volunteered as an assistant debate coach for the Minnesota Urban Debate League and worked pro bono for Legal Assistance of Dakota County, Volunteer Lawyers Network, and The Advocates for Human Rights.

June graduated cum laude from the University of Minnesota Law School in 2003, where she was the Lead Managing Editor for the Minnesota Law Review and a member of the Dean's List. She is admitted to the state courts of Minnesota and the U.S. District Courts for the District of Minnesota. June has been recognized as a Rising Star of Law in 2007, 2015, and 2016.

Jason P. Johnston is a partner at our Minneapolis office, focusing primarily on complex cases involving individuals injured by defective drugs and faulty medical devices, advocating for clients both locally and nationally. Jason's personal engagement, resolute view of the law, and solid practice style make him a strong voice for his clients and an integral part of our firm.

Jason represents clients injured from defective orthopedic hip devices manufactured by DePuy, Biomet, Stryker and Smith & Nephew. In the Stryker litigation, Jason helps patients who experienced serious health complications as a result of a modular hip that was recalled from the

market, and was part of the team that first moved the Judicial Panel on Multidistrict Litigation (JPML) to consolidate all Stryker hip claims in the District of Minnesota. During the Biomet M2a hip litigation, Jason was a member of the Plaintiffs' Science Committee where he reviewed technical documents and participated in depositions involving the design and development of the hip implant systems. Jason also represents clients injured by other orthopedic medical devices, including knee replacement systems manufactured by Zimmer. In the Zimmer NexGen knee litigation, Jason serves as a member of the Plaintiffs' Steering Committee and has also taken depositions of key witnesses in addition to working closely with experts.

Jason's medical device litigation experience extends beyond orthopedic devices, including, actively pursuing litigation for clients injured by St. Jude's Riata heart defibrillator leads and he is a member of the Claims Review Committee following a mass settlement involving Medtronic's Sprint Fidelis heart defibrillator leads. He also represents plaintiffs injured by various pharmaceutical drugs, including, Avandia, and Aredia/Zometa. Currently, Jason represents clients who have suffered cardiovascular injuries after taking testosterone therapy supplements, such as Androgel.

He recently accepted a case from the District of Minnesota's Federal Pro Se Project, a program that provides pro se plaintiffs with volunteer counsel to improve access to justice in the Federal Courts, ultimately securing a settlement against the plaintiff's employer for racial discrimination allegations. Jason had previous experience in civil rights litigation when he assisted clients in recovering almost \$1 million in a class action litigation involving various constitutional and civil rights violations.

A graduate of the University of St. Thomas School of Law, he was recognized by the Minnesota Justice Foundation for his pro bono service work and also received a Dean's Award in both Adoption and Consumer Law. He maintains close ties with the University of St. Thomas School of Law as a participant in their mentor program, where he is paired with a law student each year to act as a resource in navigating the legal field. Prior to law school, Jason attended Winona State University earning his Bachelor of Science degree, magna cum laude, in Marketing. Since 2014, Jason has been recognized as a Rising Star of Law.

Jason is admitted to the state courts of Minnesota and U.S. District Court for the District of Minnesota.

Andre S. LaBerge brings over twenty years of professional experience – as an attorney and as a business executive – in his advocacy for the rights of investors and consumers, providing counsel to several of the firm's practice areas. He has represented participants in Wells Fargo's securities lending program, investors with losses in Morgan Keegan open end bond funds, and the Office of Attorney General in the LCD antitrust litigation.

Andre has practiced law in Chicago and Minneapolis, and has represented clients at all court levels and in various regulatory forums. He has also served as Vice President, Chief Compliance Officer, General Counsel, and FINRA Registered Principal and Designated Supervisor in the financial services industry with companies that supervised and supported large numbers of securities brokers, financial planners, and insurance agents.

Andre is a graduate of DePaul University College of Law, where he was a Senior Editor for the Journal of Health and Hospital Law, and worked as a Mansfield Foundation Fellowship intern at Southern Minnesota Regional Legal Services. He is a member of the Minnesota State Bar Association and the Hennepin County Bar Association.

Michael J. Laird is an Associate at Zimmerman Reed focusing on the areas of sports law and consumer fraud. He currently supports the firm's efforts in representing retired NHL & NFL players in separate lawsuits alleging that the chronic cumulative effects of concussions were minimized.

A magna cum laude graduate of the University of Minnesota Law School, Michael served as a member of the Journal of Law, Science & Technology, and a member of the American Bar Association Moot Court team. While in law school, Michael also started a medical-legal partnership with the Phillips Neighborhood Clinic to identify and resolve legal issues affecting patient care and well-being in under-served communities, as a member of the Community Practice and Policy Development Clinic.

While in law school, Michael externed for the Honorable Jeffrey J. Keyes of the United States District Court for the District of Minnesota. He also was a law clerk for both the Bad River Band of Chippewa Indians Natural Resources Department and the Minnesota Pollution Control Agency. Michael is licensed to practice law in Minnesota.

Alyssa J. Leary focuses her practice on environmental and consumer protection law. She currently represents corn farmers and exporters in our Syngenta litigation after they suffered economic harm from using the Syngenta's unapproved, genetically modified corn strain. In consumer protection litigation, she is representing RV owners who have defective Dometic refrigerators. Alyssa is also part of the team representing consumers alleging Pacquiao and his promoters kept his shoulder injury secret prior to the highly publicized Pacquiao-Mayweather Pay-Per-View fight.

Alyssa graduated magna cum laude and Order of the Coif from Tulane University Law School and holds a Certificate in Environmental Law. While at Tulane, she worked as an editor for the Tulane Law Review, and studied economic and environmental issues in Brazil.

In addition to her law degree, Alyssa holds a Master of Science in Resource Conservation and a Certificate in Natural Resource Conflict Resolution from the University of Montana. She obtained a Bachelor of Science degree in Biology/Natural Science from the University of Puget Sound.

Prior to joining Zimmerman Reed, Alyssa worked as a renewable energy and construction law attorney and interned at the U.S. Attorney's Office for the Eastern District of Louisiana, the U.S. Marshals Service Office of General Counsel in Washington D.C., and also for the Cottonwood Environmental Law Center in Bozeman, Montana. Alyssa is licensed to practice law in Minnesota and Texas.

Caleb LH Marker is a partner in the firm's Los Angeles office and has dedicated a significant portion of his practice to consumer protection and employment cases, including retail

consumers, misclassified employees, mortgage borrowers, student loan borrowers, farmers, data privacy victims, and nursing home patients.

Caleb is a creative litigator who has been a leader in the consumer protection area and has actively involved as class counsel in cases that have provided meaningful recoveries, through trial or settlement. He currently represents musicians and entertainers in Internet-related copyright and royalty disputes, consumers in a variety of false advertising actions, corn farmers and exporters whose crops lost value as a result of unapproved GMO corn contamination (In re: Syngenta AG MIR162 Corn Litigation, MDL 2591), mortgage borrowers who were charged unlawful kickbacks through a nationwide force-placed homeowner's insurance scheme, and patients who are prescribed Enbrel.

Caleb's relationship with Zimmerman Reed began his first year as a lawyer in Michigan, when the firm served as co-counsel in his very first lawsuit. Years later, that lawsuit resulted in the largest settlement in Michigan that year. In recent years, Caleb's successes include leading a class action against the City of Los Angeles and Xerox that drew widespread media attention, winning a trial that now requires the City to end its decades-long outsourcing of the City's parking violations bureau in a case that will help over a hundred thousand motorists in Los Angeles over the next few years. He was also counsel on a case that achieved an \$11.5 million settlement on behalf of student loan borrowers against the Michigan Treasury Department – securing approval of the first class action settlement in that state's new court of claims. Caleb has also led high-profile class action lawsuits that have changed industries and resulted in significant awards, including a \$24.2 million in settlements in a series of cases for employees who were misclassified and a multi-million dollar award for nursing home patients who were inadequately cared for due to nurse understaffing.

Caleb is admitted to the State Bar of California, the District of Columbia Bar Association (inactive), the State Bar of Michigan, numerous federal district courts across the country, and the U.S. Court of Appeals for the Ninth Circuit. He has briefed and argued appeals in California, Michigan, and the Ninth Circuit. He is a member of the Los Angeles County Bar Association, the Federal Bar Association, and Consumer Attorneys of California.

He also serves on the Los Angeles County Bar's Access to Justice Committee, which aims to maximize the delivery of legal services to the poor and encourage attorneys to provide free legal services to those in need. Several of Caleb's successes have been recognized as a "Top Settlement & Verdict" by the Los Angeles Daily Journal and Michigan Lawyers Weekly. He has been interviewed by numerous media outlets, including NBC, Fox Business, NPR, The *Wall Street Journal*, AP, the *Los Angeles Times*, *LA Weekly*, and Law360. He has also been recognized as a 2015 Rising Star of Law in Southern California by Super Lawyers after a peer-nomination and review process.

Jacqueline A. Olson is an associate representing clients injured by pharmaceutical drugs and recalled or defective medical devices on cases including Mirena IUD, Stryker Hip Replacements, and Transvaginal Mesh implants. Prior to joining the firm, she worked in almost every department of a law firm - from paralegal, to marketing, to law clerk, to lawyer. During this time, she gained valuable insight about the inner workings of a firm giving her a unique and compassionate perspective in advocating for her clients.

A graduate of Hamline University School of Law, Jacqueline served as the Associate and Primary Editor of the Hamline Journal of Public Law & Policy and also served as an intern assisting law clerks to the Honorable Richard H. Kyle. Her academic honors include the Dean's Honor Roll, and a CALI Award in Commercial Law, Sales and, Leases of Goods. She was the recipient of the Best Brief Award in Legal Research and Writing Course. As a student attorney in Hamline's Employment Discrimination Mediation Clinic, Jacqueline successfully mediated and negotiated settlements for employees who had filed discrimination charges with the Equal Employment Opportunity Commission (EEOC) and alleged they were discriminated against because of their age, sex or disability. Jacqueline is licensed to practice law in Minnesota.

Bryce D. Riddle concentrates his practice on complex litigation and commercial class actions in the areas of Sports Law, Data Breach, and Consumer Protection. Currently, Bryce works on the team representing retired NHL players alleging the National Hockey League failed to minimize concussion risks for its players for decades. In data breach litigation, he represents financial institutions in cases against The Home Depot and Wendy's to recover losses arising from breaches that compromised customer financial information. Bryce also works on the Vizio consumer privacy litigation asserting violations of state and federal law for the unauthorized collection and sale of customers' private and personal data.

Bryce graduated cum laude from the University of Minnesota Law School in 2014, where he was a member of the Minnesota Journal of International Law and a Dean's Scholarship recipient. While in law school, he participated in the Student Exchange Program in Milan, Italy at Bocconi University School of Law and also externed for the Honorable David S. Doty of the United States District Court for the District of Minnesota. He subsequently served as a judicial law clerk for the Honorable Elizabeth V. Cutter and the Honorable Bridget A. Sullivan in Minnesota's Fourth Judicial District. Bryce is licensed to practice law in Minnesota and California state courts, as well as federal court in the District of Minnesota.

Christopher P. Ridout is a partner working in the areas of complex litigation including consumer protection, labor and employment, unfair business practices, false advertising, toxic tort, commercial and residential hazardous substance exposure.

He was appointed as co-interim lead counsel representing a class of consumers in a mislabeling lawsuit alleging that Celestial Seasonings tea products falsely claim to be "all natural" when they contain pesticide residue from the agricultural process. In consumer litigation, Chris represents classes of consumers and employees in connection with data breaches that have compromised personal, financial, medical, and employment information. He represents a class of GM diesel truck owners alleging that the DMAX diesel engine design is defective causing a reduction in fuel efficiency by 25-30 percent. He is challenging the billing practices of the Los Angeles Department of Water alleging excessive fees, rates and charges to customers that exceed the costs of provided water and power services. Chris also represents RV owners in a class action lawsuit alleging that Norcold knew of a potentially dangerous RV refrigerator fire risk, but hid that information from the public. He also advocates on behalf of musicians and entertainers in Internet-related copyright and royalty disputes.

Over the last decade, Chris has been involved in the resolution of a series of class action lawsuits including a settlement of more than \$24 million on behalf of misclassified employees, an \$11.5 million settlement for Michigan students loan borrowers over an interest rate dispute, a \$9 million settlement claiming Naked Juice violated state and federal laws regarding the marketing and sale of its product, and a multi-million dollar award for residents of various nursing home facilities alleging widespread and intentional failure to provide sufficient care to the residents due to understaffing.

Chris attended Harvard University where he received his Bachelor of Arts Degree in 1986. While focusing on his major of American History, he was a member of the Harvard Varsity Football Team and played in the historic 100th Harvard-Yale match-up commonly referred to as "The Game." In his senior year, Chris was awarded the "William Payne LeCroix Memorial Award" given to that team member exhibiting the most loyalty and dedication to the Harvard Varsity Football Team.

After graduating from the University of the Pacific McGeorge School of Law in 1989, he was admitted to the California Bar that same year. He has also been admitted to practice before the United States District Court for the Southern, Central, and Northern Districts of California; the United States District Court for the District of Colorado; the United States District Court for the District of Minnesota; the United States District Court for the Northern District of Ohio; and the United States Court of Appeals for the Ninth Circuit.

Hart L. Robinovitch is a partner with Zimmerman Reed, working in the firm's Scottsdale, Arizona office. Hart focuses his practice in the areas of consumer and shareholder actions, and sports law.

Hart currently represents corn farmers and DDGS exporters in the Syngenta Viptera Litigation who have experienced the effects of China's ban of U.S. corn and corn-derived products, suffering lower prices, decreased sales and other losses as the prices of U.S. corn has decreased. He is a member of the lead counsel team representing retired NHL players alleging the National Hockey League minimized the chronic cumulative effects of concussion risks from its players for decades. Hart also represents clients in a class action lawsuit on behalf of RV owners alleging that Norcold knew of a potentially dangerous RV refrigerator fire risk, but hid that information from the public.

Hart has been involved in numerous state and federal court lawsuits around the country challenging the misclassification of entertainers as independent contractors opposed to employees in the nightclub industry. He also represented consumers in other actions alleging deceptive and unlawful business conduct towards customers including, but not limited to, false advertising practices, "bait and switch" tactics, altering contractual terms without valid consideration, and retailers' requests and/or requirements that their customers provide personal identification information when they complete a transaction using their credit card, in violation of state and/or federal statutes. In addition, Hart represented residents of various skilled nursing facilities alleging pervasive and intentional failure to provide sufficient direct nursing care staffing resulting in harm to the residents.

For the past decade, Hart has represented clients in a series of class action lawsuits contesting mortgage lenders' excessive billing and deposits practices for mortgage escrow accounts. Hart

is now involved in numerous federal court lawsuits around the country alleging that mortgage banks and lenders have violated federal and state laws. These cases allege payment of kickbacks and/or illegal and unearned referral fees by the banks and lenders to mortgage brokers who refer mortgage clients who are then charged inflated interest rates on the mortgages. In addition, he represents consumers in other actions contesting the imposition of overcharges and improper fees or other contractual violations in various mortgage transactions. He has worked with co-counsel in state and federal courts across the country.

A native of Canada, Hart earned his degree from the University of Toronto Law School in 1992 where he served as an Associate Editor on the University of Toronto Faculty of Law Review. He received his Bachelor of Science degree in 1989 from the University of Wisconsin-Madison.

Hart is admitted to practice before, and is a member in good standing of, the Bars of the States of Arizona and Minnesota and the United States District Court for the Districts of Arizona, Minnesota, and the Eastern District of Michigan. Hart is also licensed to practice law before the United States Courts of Appeals for the Sixth, Eighth, Ninth, and Eleventh Circuits, and the United States Supreme Court. Hart's memberships include the National Association of Consumer Advocates and Canadian American Bar Association.

J. Gordon Rudd, Jr. is a managing partner at Zimmerman Reed, representing clients in the areas of mass tort, consumer fraud, and employment law. Gordon has been appointed class counsel in cases venued in both state and federal courts across the country.

Gordon was recently part of the team that achieved a \$50 million settlement in the complicated court fight over publicity rights for retired NFL players. In a separate lawsuit, he represents hundreds of retired NFL players suffering from concussive head injuries that occurred while playing in the league. Gordon also represented thousands of individuals injured by the largest release of anhydrous ammonia in U.S. history. Two of those individuals were awarded \$1.2 million by a jury. Eventually, these trials led to a settlement on behalf of other residents of Minot, North Dakota injured by the derailment. Currently, he is representing hundreds of homeowners whose properties have been exposed to a toxic chemical vapor called trichloroethylene (TCE).

In Mass Tort litigation, Gordon leads several cases, including representing clients who experienced uncontrollable urges to gamble while taking top-selling prescription drug Abilify, representing nursing home residents sickened by a Hepatitis C outbreak (the second-largest outbreak of the disease in U.S History), men who have suffered cardiovascular injuries following their use of testosterone therapy supplements, and clients who experienced severe bleeding problems while taking Xarelto.

Gordon is also working on a number of multi-district litigation cases. Gordon is a member of the lead counsel team representing banks and other financial institutions seeking recovery of losses from the 2013 Target data breach. He also holds leadership positions on several Plaintiffs' Steering Committees including *In re H&R Block IRS Form 8863 Litigation*, MDL 2474, *In re Life Time Fitness, Inc., Telephone Consumer Protection Act (TCPA) Litigation*, MDL 2564, *In re FedEx Ground Package System, Inc.,* MDL 1700, and *In re Building Materials Corp. of America Asphalt Roofing Shingle Products Liability Litigation*, MDL 2283.

Gordon graduated from Connecticut College, where he received a Bachelor of Arts degree in English Literature & Government. He received his law degree from the University of Cincinnati College of Law. Gordon is licensed to practice before, and is a member in good standing of, the Bar of the State of Minnesota and the United States District Court for the District of Minnesota. Gordon is admitted to the United States Court of Appeals for the Eighth Circuit. He has been admitted to appear pro hac vice in cases pending in the states of California, Oregon, Arizona, New Mexico, Texas, North Dakota, Ohio, Florida, Georgia, Tennessee, and Michigan. Since 2006, Gordon has been selected as a Super Lawyer by his peers in Minnesota.

Behdad C. Sadeghi focuses his practice on complex litigation involving consumer protection, securities fraud, and financial fraud in state and federal courts around the country.

Behdad worked on the team representing investors who sustained losses as a result of alleged federal securities law violations by Morgan Keegan and its affiliates that achieved a \$125 million settlement. He also represented a class of financial institutions who suffered losses resulting from a major data breach in a class action against the Target Corporation that resulted in a \$39 million dollar settlement. In consumer litigation, he successfully achieved a multimillion dollar wrongful death settlement against a major automobile manufacturer, and a settlement on behalf of a group of elderly victims of one of the largest hepatitis C outbreaks in the nation's history. He also represents a putative class of consumers alleging violations of the Telephone Consumer Protection Act by Papa Murphy's and SuperAmerica.

Behdad graduated magna *cum laude* from William Mitchell College of Law, where he was a member of the William Mitchell Journal of Law and Practice and the Niagara International Moot Court Team; he also participated in the school's Civil Advocacy Clinic. His academic honors include a CALI Excellence for the Future Award, four Dean's List honors, and a Burton Award Nomination for Excellence in Legal Writing. Behdad is licensed to practice law in Minnesota.

Charles S. Zimmerman is a founding partner at Zimmerman Reed and is a nationally recognized leader in complex and class action litigation. He frequently speaks at industry conferences and CLEs, and is the author of a newly published book on complex litigation. During more than 30 years of practice, Bucky has successfully represented thousands of clients through individual actions and nationwide class actions. His cases have involved the tobacco industry, pharmaceutical companies, and shareholder suits. Bucky has served as lead counsel, PSC member and liaison counsel in numerous major pharmaceutical and medical device cases over the last 15 years. He currently serves on the Lead Counsel Committee for Stryker Hip Litigation, was appointed to the Plaintiffs' Steering Committee in the NFL Players' Concussion Injury Litigation, and is Lead Counsel representing banks in the Target Data Breach case. He has also served as Co-Lead Plaintiffs' Counsel in the Baycol, Guidant, Levaquin, Medtronic, Zicam, NFL Retired Players Publicity Rights, and National Arbitration Forum MDLs. Through his leadership in these and other groundbreaking cases, Bucky continues to advance the interests of his clients and the legal profession.

In addition to his case work, Bucky continues to lecture on complex litigation and working with the media in high profile cases for a variety of organizations including the Minnesota State Bar Association, Minnesota Continuing Legal Education, the University of Minnesota Law School, William Mitchell College of Law, the Minnesota Association for Justice, and Mealey's Publications. He is also an adjunct professor of law teaching Mass Torts at the University of Minnesota Law School. In 2006, Bucky authored "Pharmaceutical and Medical Device Litigation," a mass tort manual published by Thompson/West.

He has been recognized by his peers in Minnesota as a Super Lawyer from 2000 - 2007, 2011, 2012, 2013, 2014, and 2015. He was also selected as the 2013 & 2014 Minneapolis Mass Tort Litigation / Class Actions - Plaintiffs Lawyer of the Year by The Best Lawyers in America.

Bucky is a graduate of the University of Minnesota Law School. He also received his undergraduate degree from the University of Minnesota and was a three letter winner, Williams Scholar, and captain of the varsity U of M tennis team his junior and senior years. Bucky is a member of the United States Professional Tennis Association obtaining national ranking, and has won gold and silver medals at the world Maccabiah and Pan American Maccabiah games.

Bucky is licensed to practice law in the States of Minnesota and Arizona, and is admitted to the United States District Court for the District of Minnesota, District of Colorado, and District of North Dakota, and the United States Supreme Court. He is also admitted to the Third, Fifth, Sixth, and Eighth United States Circuit Courts of Appeals.

Bucky served as co-chairman of the Advisory Committee for Mealey's Propulsid Litigation Conference and he chaired the faculty of a Minnesota Institute for Legal Education seminar, "Dealing with Complex Litigation." Bucky has also lectured and served as a member of the faculty at Mealey's "Norplant Conference," Mealey's "Breast Implant Conferences," Andrew's Publications' "Medical Devices Litigation Conference," as well as numerous conferences on the subject of Tobacco Litigation and "Youth and Addiction." Additionally, he was a guest lecturer on the subject of Complex Litigation at the University of Minnesota School of Law in conjunction with course work prepared by Professor Robert J. Levy, and the William Mitchell College of Law in conjunction with course work prepared by the Honorable Thomas Carey.

Bucky's memberships include the Minnesota Association for Justice, American Association for Justice, the Federal Bar, the Minnesota State Bar Association, the Hennepin County Bar Association, and the Bar Associations of the Fifth and Eighth Federal District Courts.

CASE RESUME: RECENT LEADERSHIP POSITIONS

Consumer Litigation

- Adams v. Target Corporation, United States District Court, Central District of California
- Chapman v. Sport Chalet, Superior Court of Los Angeles County, State of California
- Chavez v. Wal-Mart Stores Inc., United States District Court, Central District of California
- City of Wyoming, et al. v. Procter & Gamble Company, et al., United States District Court, District of Minnesota
- Dearmon, et al. v. Mercury Finance Company, Fourth Judicial District Court, State of Minnesota
- DeGrise, et al. v. Ensign Group, Inc., et al., Superior Court of Sonoma County, State of California
- DeLillo, et al. v. NCS Pearson, et al., United States District Court, District of Minnesota
- Diamond, et al. v. AVCO Auto Finance, et al., Superior Court of California, Monterey County
- Drobnak, et al. v. Andersen Windows, Inc., United States District Court, District of Minnesota
- Esparza v. Coach, Inc., et al., United States District Court, Central District of California
- Fischl, et al. v. Direct Merchants Bank, Fourth Judicial District, State of Minnesota
- Garcia, et al. v. Metro Gang Strike Force, United States District Court, District of Minnesota
- *Grant, et al. v. Regions Mortgage Co. f/k/a First Commercial Mortgage Co.,* Superior Court of California, Ventura County
- Gutter, et al. v. Bank One Louisiana, Orleans Parish Civil District, State of Louisiana
- In re Building Materials Corp. of America Asphalt Roofing Shingle Products Liability Litigation, MDL 2283 (Member of the Plaintiffs' Steering Committee)
- *In re Apple iPhone "MMS" Sales Practices Litigation, MDL 2116* (Member of the Plaintiffs' Steering Committee)
- In re Building Materials Corp. of America Asphalt Roofing Shingle Products Liability Litigation, MDL 2283 (Member of the Plaintiffs' Steering Committee)
- In re Castano Tobacco Litigation, United States District Court for the Eastern District of Louisiana
- In re Dockers Roundtrip Airfare Promotion Sales Practices Litigation, United States District Court, Central District of California
- In re Dry Max Pampers Litigation, United States District Court, Southern District of Ohio
- In re H&R Block IRS Form 8863 Litigation, MDL 2474, United States District Court, Western District of Missouri
- In re Life Time Fitness, Inc., Telephone Consumer Protection Act (TCPA) Litigation, MDL 2564
- In re McCormick & Company, Inc. Pepper Products Marketing and Sales Practice Litigation, MDL 2665
- In re Medco Health Solutions, Inc., Pharmacy Benefits Management Litigation, MDL 1508 (Lead Counsel)
- In re National Arbitration Forum Trade Practices Litigation, MDL 2122

- *In re Target Corporation Customer Data Security Breach Litigation*, MDL 2522, United States District Court, District of Minnesota
- In re Uponor, Inc., F1807 Plumbing Fittings Products Liability Litigation, MDL 2247 (Member of the Plaintiffs' Steering Committee)
- In re Zurn Pex Plumbing Products Liability Litigation, MDL 1958 (Liason Counsel)
- Kurvers, et al. v. National Computer Systems, Inc., Fourth Judicial District Court, State of Minnesota
- Lennartson v. Papa Murphy's Holdings, Inc., et al., United States District Court, Western District of Washington
- McDonald, et al. v. Eli Lilly & Company, United States District Court, District of Minnesota
- Mehrens v. Redbox Corp., Superior Court of Los Angeles County, State of California
- *Mills, et. al., v. Roto-Rooter Services Company,* Fourth Judicial District Court of Hennepin County, State of Minnesota
- Monteuil v. Ensign Group, Inc., et al., Superior Court of Los Angeles County, State of California
- Minnerath, et al. v Zurn Pex Inc., United States District Court, District of Minnesota
- O'Hara, et al. v. Marvin Lumber, et al., Fourth Judicial Court, State of Minnesota
- Pistilli, et al. v. Life Time Fitness, Fourth Judicial District, State of Minnesota
- Rapp v. Green Tree Servicing, LLC et al., United States District Court, District of Minnesota
- Rubinstein v. Michaels, Superior Court of Los Angeles County, State of California
- Russo, et al. v. NCS Pearson, Inc., et al., United States District Court, District of Minnesota
- Sara Lee Meat Contamination Litigation, Cress v. Sara Lee, Circuit Court of Cook County, State of Illinois, Court File No. 98 L 15072
- *Scott v. American Tobacco Co., Inc., et al., Court File No.:* 96-8461, Civil District Court for the Parish of New Orleans, Louisiana
- Soular v. Northern Tier Energy, LP, et al., United States District Court, District of Minnesota
- U.S. Hotel and Resort Management, Inc. et al. v. Onity Inc., United States District Court, District of Minnesota
- Wallace, et al. v. ConAgra Foods Inc. d/b/a Hebrew National, United States District Court, District of Minnesota
- Wick v. Twilio, Inc., United States District Court, Western District of Washington
- Wright, et al. v. Malt-O-Meal Company, Fourth Judicial District, State of Minnesota

Defective Drugs and Devices

- Guttormson et al. v. Manor Care of Minot ND, LLC et al., United States District Court, District of North Dakota
- In re Avandia Pharmaceutical Litigation
- *In re Baycol Products Litigation MDL 1431* (Co-Lead Counsel)
- In re Biomet M2A Magnum Hip Implant Products Liability Litigation, MDL 2391 (Member of the Plaintiffs' Steering Committee)
- *In re Breast Implant Litigation MDL* 926 (Member of the Plaintiffs' Steering Committee)

- *In re Celebrex and Bextra Products Liability Litigation,* MDL 1694 (Member of the Plaintiffs' Steering Committee)
- In re Darvocet, Darvon And Propoxyphene Products Liability Litigation, MDL 2226
- In re DePuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation, MDL 2197
- *In re Diet Drugs Products Liability Litigation (Phentermine / Fenfluramine / Dexfenfluramine) MDL* 1203 (Member of the Plaintiffs' Steering Committee)
- In re Digitek Products Liability Litigation, MDL 1968 (Member of the Plaintiffs' Steering Committee)
- In re Ephedra Products Liability Litigation, MDL 1598
- In re Guidant Implantable Defibrillators Products Liability Litigation, MDL 1708 (Co-Lead Counsel)
- In re Intergel Products Litigation, Carver County, Minnesota
- In re Levaquin Products Liability Litigation, MDL 1943 (Lead Counsel)
- In re Meridia Products Liability Litigation, MDL 1481 (Member of the Plaintiffs' Steering Committee)
- In re Medtronic Implantable Defibrillators Products Liability Litigation MDL 1726 (Co-Lead Counsel)
- In re Medtronic, Inc., Sprint Fidelis Leads Products Liability Litigation (Co-Lead Counsel)
- In re Neurontin "Off-Label" Marketing Litigation, MDL 1629 (Member of the Plaintiffs' Steering Committee)
- In re Orthopedic Bone Screw Litigation MDL 1014 (Member of the Plaintiffs' Steering Committee)
- In re Phenylpropanolamine (PPA) Products Liability Litigation, MDL 1407
- In re Propulsid Products Liability Litigation MDL 1355 (Member of the Plaintiffs' Steering Committee)
- In re Rezulin Products Liability Litigation, MDL 1348 (Member of the Plaintiffs' Steering Committee)
- In re Serzone Products Liability Litigation, MDL 1477 (Member of the Plaintiffs' Steering Committee)
- *In re St. Jude Silzone Heart Valves Product Liability Litigation, MDL 1396* (Liason Counsel)
- In re Stryker Rejuvenate and ABG II Hip Implant Products Liability Litigation, MDL 2441 (Lead Counsel Committee)
- In re Sulzer Inter-Op Orthopedic Hip Implant Litigation MDL 1401 (Member of the Plaintiffs' Steering Committee)
- In re Telectronics Pacemaker Litigation MDL 1057 (Member of the Plaintiffs' Steering Committee)
- *In re Viagra Products Liability Litigation,* MDL 1724 (Lead Counsel)
- In re Vioxx Products Liability Litigation, MDL 1657 (Member of the Plaintiffs' Steering Committee)
- In re Zicam Cold Remedy Product Liability Litigation, MDL 2096 (Lead Counsel)
- In re Zimmer NexGen Knee Implant Products Liability Litigation, MDL 2272 (Member of the Plaintiffs' Steering Committee)

Securities, Investment Fraud, Corporate Governance and Antitrust

- Adedipe, et al. v. U.S. Bank, Nat'l Ass'n, et al., United States District Court, District of Minnesota (Co-Lead Counsel)
- AI Plus, Inc. and IOC Distribution, Inc. v. Petters Group Worldwide, et al., United States District Court, District of Minnesota
- Alessi v. Medicis Pharmaceutical Corp., et al., Superior Court of Maricopa County, State of Arizona
- Apotheker v. Insight Enterprises, Inc., et al., Superior Court of Maricopa County, State of Arizona
- Bamboo Partners v. Apollo Group, Inc., et al., United States District Court, District of Arizona
- Barnett v. Apollo Group, Inc., et al., Superior Court of Maricopa County, State of Arizona
- City of Ann Arbors Employees' Retirement System v. MoneyGram International, Inc., United States District Court, District of Minnesota
- City of Farmington Hills Employees Retirement System v. Wells Fargo Bank, N.A., United States District Court, District of Minnesota
- City of Tallahassee Pension Plan v. Insight Enterprises, Inc., et al., Superior Court of Maricopa County, State of Arizona
- Dillen v. Insight Enterprises, Inc., et al., United States District Court, District of Arizona
- Fry v. Fry, Fourth Judicial District, State of Minnesota
- Gaither v. Computer Network Technology Corporation, et al., Fourth Judicial District, State of Minnesota
- Garg v. Virtual Radiologic Corporation, et al., Fourth Judicial District, State of Minnesota
- Haritos, et al. v. American Express Financial Advisors, U.S. District Court, District of Arizona
- Hazuka v. Hypercom Corporation, et al., United States District Court, District of Arizona
- In re ATS Medical, Inc. Shareholders Litigation, Fourth Judicial District, State of Minnesota
- In re Blue Cross Blue Shield Antitrust Litigation, MDL 2406
- In re Boston Scientific Corporation Securities Litigation, U.S. District Court, District of Massachusetts
- In re Ditropan XL Antitrust Litigation, United States District Court, Northern District of California
- *In re Domestic Drywall Antitrust Litigation*, MDL 2437
- In re E.W. Blanch Holdings Securities Litigation, United States District Court, District of Minnesota
- In re LCD Antitrust Litigation, United States District Court, Northern District of California
- *In re Lipitor Antitrust Litigation,* MDL 2332
- In re Medtronic, Inc. Derivative Litigation, United States District Court, District of Minnesota
- In re Medtronic, Inc. Securities Litigation, United States District Court, District of Minnesota
- In re Merrill Lynch & Co., Inc. Securities, Derivative and ERISA Litigation, United States District Court, Southern District of New York
- In re Pemstar, Inc. Securities Litigation, United States District Court, District of Minnesota

- In re Pool Products Distribution Market Antitrust Litigation, MDL 2328
- In re Region Morgan Keegan Securities, Derivative and ERISA Litigation [In re Regions Morgan Keegan Open-End Mutual Fund Litigation], United States District Court, Western District of Tennessee
- In re Region Morgan Keegan Securities, Derivative and ERISA Litigation [Landers v. Morgan Asset Management]., United States District Court, Western District of Tennessee
- In re St. Jude Medical, Inc. Securities Litigation, United States District Court, District of Minnesota
- In re Stellent, Inc. Securities Litigation, United States District Court, District of Minnesota
- In re Stratasys Ltd. Shareholder Securities Litigation, United States District Court, District of Minnesota
- In re Suboxone Antitrust Litigation, MDL 2445
- In re SuperValu, Inc. Securities Litigation, United States District Court, District of Minnesota
- In re Target Corporation Securities Litigation, United States District Court, District of Minnesota
- In re Taser International Securities Litigation, United States District Court, District of Arizona
- In re The St. Paul Companies, Inc., et al., United States District Court, District of Minnesota
- In re Tricor Indirect Purchaser Antitrust Litigation, United States District Court, District of Delaware
- In re Vitamins Antitrust Litigation, United States District Court, District of District of Columbia
- In re Xcel Energy, Inc. Securities Litigation, United States District Court, District of Minnesota
- In re Zomax, Inc. Securities Litigation, United States District Court, District of Minnesota
- Klosek, et al. v. Ameriprise Financial, Inc., et al., United States District Court, District of Minnesota
- Krause v. UnitedHealth Group, Inc., et al., United States District Court, District of Minnesota
- Langdale v. Mobility Electronics, Inc., et al., United States District Court, District of Arizona
- Langley v. Syntax-Brillian Corp., et al., United States District Court, District of Arizona
- Liu v. JDA Software Group., et al., Superior Court of Maricopa County, State of Arizona
- Mars Hill Media v. Petters Group Worldwide, et al., United States District Court, District of Minnesota
- Mok v. Rucker, et al., United States District Court, District of Minnesota
- MoneyGram Payment Systems, Inc. v. Citigroup, Inc., et al., Fourth Judicial District, State of Minnesota
- MoneyGram Payment Systems, Inc. v. Deutsche Bank AG, et al., Fourth Judicial District, State of Minnesota
- New Orleans Employees' Retirement System v. UBS, AG, et al., United States District Court, Southern District of New York
- Reinhardt v. Syntax-Brillian Corp., et al., Superior Court of Maricopa County, State of Arizona
- Rensch v. Northern Oil & Gas, Inc., et al., United States District Court, District of Minnesota

- Rupp, et al. v. Thompson et al. (Minnesota Corn Processors), Fifth Judicial District Court, State of Minnesota
- Schmidt, et al. v. eFunds Corporation, et al., Superior Court of Arizona, Maricopa County
- Scull v. Compellent Technologies, Inc., et al., United States District Court, District of Minnesota
- St. Barnabas Hospital, Inc., et al. v. Ovation Pharmaceuticals, et al., United States District Court, District of Minnesota
- State of New Mexico v. Visa, Inc., et al, First Judicial District, State of New Mexico
- Stevenson v. ev3 Inc., et al., Fourth Judicial District, State of Minnesota
- Surooj v. Polaris Industries, Inc., United States District Court, District of Minnesota
- Tran v. Joly, et al., United States District Court, District of Minnesota
- West, Jr. v. American International Group, Inc., et al., United States District Court, Southern District of New York
- Yurman v. Plato Learning, Inc., et al., United States District Court, District of Minnesota

Sports Law

- *Dryer v. National Football League*, United States District Court, District of Minnesota (Lead Counsel)
- *In re National Collegiate Athletic Association Student-Athlete Concussion Litigation, MDL* 2492 (Member of the Executive Committee)
- In re National Hockey League Players' Concussion Injury Litigation, MDL 2551 (Co-Lead Counsel)
- In re National Football League Players' Concussion Injury Litigation, MDL 2323 (Member of the Plaintiffs' Steering Committee)

Employment Violations - Wage and Hour Litigation

- Bernstein, et al. v. M.G. Waldbaum, Inc., et al., United States District Court, District of Minnesota
- Christman, et al. v. FPMI Solutions, Inc., United States District Court, Northern District of California
- Daud, et al. v. Gold'n Plump Poultry, Inc., United States District Court, District of Minnesota
- DeKeyser, et al. v. ThyssenKrupp Waupaca, Inc., United States District Court, Eastern District of Wisconsin
- Doe v. Cin-Lan, Inc., et al., United States District Court, Eastern District of Michigan
- Doe I, et al., v. R&B Muskegon, Inc., et al., United States District Court, Western District of Michigan
- Fluegel, et al. v. FedEx Ground Package System, Inc., United States District Court, Northern District of Illinois
- Ford, et al. v. Townsends, Inc., United States District Court, Eastern District of Arkansas
- Frank, et al. v. Gold'n Plump Poultry, Inc., United States District Court, District of Minnesota
- Garner, et al v. Butterball, LLC, United States District Court, Eastern District of Arkansas

- Grabman, et al. v. Brakebush Brothers, Inc., United States District Court, Eastern District of Wisconsin
- *Griffin, et al. v. FedEx Corporation, et al.,* United States District Court, Northern District of Illinois Eastern Division
- Helmert, et al. v Butterball, LLC, United States District Court, Eastern District of Arkansas
- Hudson, et al. v. Butterball, LLC, United States District Court, Western District of Missouri
- In re Fedex Ground Package System, Inc., MDL 1700 (Member of the Plaintiffs' Steering Committee)
- Larkin et al. v. CPI Corp, et al., United States District Court, Western District of Wisconsin
- Milner, et al. v. Farmers Insurance Exchange, United States District Court, District of Minnesota
- Patterson, et al. v. 68-444 Perez, Inc., et al., United States District Court, Central District of California
- Patzke, et al. v. American Express TRS Co., Inc., United States District Court, District of Arizona
- Phelps, et al. v. Green Bay Dressed Beef, LLC, United States District Court, Eastern District of Wisconsin
- Robinson, et al. v. Novellus Systems, Inc., United States District Court, Northern District of California
- Salazar, et al. v. Butterball, LLC, United States District Court, District of Colorado
- Trauth v. Spearmint Rhino Companies Worldwide, Inc., et al., United States District Court, Central District of California
- Trauth v. Déjà vu Consulting, Inc., et al., Superior Court of Los Angeles County, State of California
- Trejo et al. v. Townsends, Inc., United States District Court, Middle District of North Carolina

Environmental and Toxic Torts

- Adams, et al. v. DPC Enterprises, LP, et al., Jefferson County Circuit Court, State of Missouri
- Cooksey v. Hawkins Chemical Company, Hennepin County District Court File No. 95-3603
- Cuff, et al. v. Brenntag North America, Inc., et al. United States District Court, Northern District of Georgia Atlanta Division
- Ebert et al. v. General Mills, Inc., United States District Court, District of Minnesota
- Fastrip, Inc., et al. v. CSX Corporation, United States District Court, Western District of Kentucky
- In re MTBE Water Contamination Litigation, MDL 1358, United States District Court, Southern District of New York
- In re Soo Line Railroad Company Derailment of January 18, 2002 in Minot, N.D., Hennepin County District Court File No. 06-1833
- In re Welding Rods Products Liability Litigation, MDL 1535, United States District Court, Northern District of Ohio

- Martin, et al. v. BioLab, Inc., et al., United States District Court, Northern District of Georgia Atlanta Division
- McGruder, et al. v. DPC Enterprises, LP, et al., Maricopa County Superior Court, State of Arizona
- *Mehl, et al. v. Canadian Pacific Railway, et al.,* United States District Court, District of North Dakota
- Ponce, et al. v. Pima County, et al., Maricopa County Superior Court, State of Arizona
- Sanders, et al. v. Norfolk Southern Corporation, et al., United States District Court, District of South Carolina
- Weincke, et al. v. Metropolitan Airports Commission, State of Minnesota, Hennepin County District Court (Class Counsel)

Homeowner Mortgage Litigation

- Anderson, et al. v. The Money Store, United States District Court, District of South Carolina
- Boschee v. Burnet Title Company, Fourth Judicial District, State of Minnesota
- Edwards / White, et al. v. Long Beach Mortgage Company / Washington Mutual Bank F.A., et al., Fourth Judicial District Court, State of Minnesota
- Gewecke v. U.S. Bank, et al., United States District Court, District of Minnesota
- Glover v. Standard Federal Bank, United States District Court, District of Minnesota
- Grady v. Burnett Realty, Fourth Judicial District, State of Minnesota
- Henry, et al. v. Associate Home Equity Services, United States Bankruptcy Court, Southern District of California
- Holland v. Countrywide Home Loans, Nassau County Supreme Court, State of New York
- *In re Mortgage Escrow Litigation, MDL 899* (Lead Counsel)
- Lang v. Town and Country Credit, United States District Court, District of Minnesota
- Larpenteur, et al. v. Burnet Realty, Inc., et al., Fourth Judicial District, State of Minnesota
- Logan, et al. v. Norwest Mortgage Bank Minnesota, N.A., Fourth Judicial District Court, State of Minnesota
- Lund v. Universal Title Company, Fourth Judicial District, State of Minnesota
- Nobles, et al. v. Countrywide Home Loans, Alameda County Superior Court, State of California
- Mahoney v. Fidelity National Title Company, United States District Court, Central District of California
- McBride v. Reliastar, United States District Court, Northern District of Georgia
- Mitchell, et al. v. Chicago Title Insurance Company, Fourth Judicial District Court, State of Minnesota
- Ricci, et al. v. Ameriquest Mortgage Company, Fourth Judicial District, State of Minnesota
- Schlink v. Edina Realty Title, Fourth Judicial District, State of Minnesota
- Schuetz v. Banc One, United States District Court, District of Arizona
- Stepan v. Edina Realty Title, Fourth Judicial District Court, State of Minnesota
- Taft v. Wells Fargo Bank N.A., Fourth Judicial District, State of Minnesota
- Wilson v. Commercial Federal Mortgage Corp., United States District Court, Northern District of Alabama

EXHIBIT Y

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An Empirical Study of Class Action Settlements and Their Fee Awards

Brian T. Fitzpatrick*

This article is a comprehensive empirical study of class action settlements in federal court. Although there have been prior empirical studies of federal class action settlements, these studies have either been confined to securities cases or have been based on samples of cases that were not intended to be representative of the whole (such as those settlements approved in published opinions). By contrast, in this article, I attempt to study every federal class action settlement from the years 2006 and 2007. As far as I am aware, this study is the first attempt to collect a complete set of federal class action settlements for any given year. I find that district court judges approved 688 class action settlements over this two-year period, involving nearly \$33 billion. Of this \$33 billion, roughly \$5 billion was awarded to class action lawyers, or about 15 percent of the total. Most judges chose to award fees by using the highly discretionary percentage-of-the-settlement method, and the fees awarded according to this method varied over a broad range, with a mean and median around 25 percent. Fee percentages were strongly and inversely associated with the size of the settlement. The age of the case at settlement was positively associated with fee percentages. There was some variation in fee percentages depending on the subject matter of the litigation and the geographic circuit in which the district court was located, with lower percentages in securities cases and in settlements from the Second and Ninth Circuits. There was no evidence that fee percentages were associated with whether the class action was certified as a settlement class or with the political affiliation of the judge who made the award.

I. Introduction

Class actions have been the source of great controversy in the United States. Corporations fear them.¹ Policymakers have tried to corral them.² Commentators and scholars have

^{*}Vanderbilt Law School, 131 21st Ave. S., Nashville, TN 37203; email: brian.fitzpatrick@vanderbilt.edu.

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¹See, e.g., Robert W. Wood, Defining Employees and Independent Contractors, Bus. L. Today 45, 48 (May–June 2008).

²See Private Securities Litigation Reform Act (PSLRA) of 1995, Pub. L. No. 104-67, 109 Stat. 737 (codified as amended in scattered sections of 15 U.S.C.); Class Action Fairness Act of 2005, 28 U.S.C. §§ 1453, 1711–1715 (2006).

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suggested countless ways to reform them.³ Despite all the attention showered on class actions, and despite the excellent empirical work on class actions to date, the data that currently exist on how the class action system operates in the United States are limited. We do not know, for example, how much money changes hands in class action litigation every year. We do not know how much of this money goes to class action lawyers rather than class members. Indeed, we do not even know how many class action cases are resolved on an annual basis. To intelligently assess our class action system as well as whether and how it should be reformed, answers to all these questions are important. Answers to these questions are equally important to policymakers in other countries who are currently thinking about adopting U.S.-style class action devices.⁴

This article tries to answer these and other questions by reporting the results of an empirical study that attempted to gather all class action settlements approved by federal judges over a recent two-year period, 2006 and 2007. I use class action settlements as the basis of the study because, even more so than individual litigation, virtually all cases certified as class actions and not dismissed before trial end in settlement.⁵ I use federal settlements as the basis of the study for practical reasons: it was easier to identify and collect settlements approved by federal judges than those approved by state judges. Systematic study of class action settlements in state courts must await further study;⁶ these future studies are important because there may be more class action settlements in state courts than there are in federal court.⁷

This article attempts to make three contributions to the existing empirical literature on class action settlements. First, virtually all the prior empirical studies of federal class action settlements have either been confined to securities cases or have been based on samples of cases that were not intended to be representative of the whole (such as those settlements approved in published opinions). In this article, by contrast, I attempt to collect every federal class action settlement from the years 2006 and 2007. As far as I am aware, this study is the first to attempt to collect a complete set of federal class action settlements for

³See, e.g., Robert G. Bone, Agreeing to Fair Process: The Problem with Contractarian Theories of Procedural Fairness, 83 B.U.L. Rev. 485, 490–94 (2003); Allan Erbsen, From "Predominance" to "Resolvability": A New Approach to Regulating Class Actions, 58 Vand. L. Rev. 995, 1080–81 (2005).

⁴See, e.g., Samuel Issacharoff & Geoffrey Miller, Will Aggregate Litigation Come to Europe?, 62 Vand. L. Rev. 179 (2009).

⁵See, e.g., Emery Lee & Thomas E. Willing, Impact of the Class Action Fairness Act on the Federal Courts: Preliminary Findings from Phase Two's Pre-CAFA Sample of Diversity Class Actions 11 (Federal Judicial Center 2008); Tom Baker & Sean J. Griffith, How the Merits Matter: D&O Insurance and Securities Settlements, 157 U. Pa. L. Rev. 755 (2009).

⁶Empirical scholars have begun to study state court class actions in certain subject areas and in certain states. See, e.g., Robert B. Thompson & Randall S. Thomas, The Public and Private Faces of Derivative Suits, 57 Vand. L. Rev. 1747 (2004); Robert B. Thompson & Randall S. Thomas, The New Look of Shareholder Litigation: Acquisition-Oriented Class Actions, 57 Vand. L. Rev. 133 (2004); Findings of the Study of California Class Action Litigation (Administrative Office of the Courts) (First Interim Report, 2009).

⁷See Deborah R. Hensler et al., Class Action Dilemmas: Pursuing Public Goals for Private Gain 56 (2000).

any given year. As such, this article allows us to see for the first time a complete picture of the cases that are settled in federal court. This includes aggregate annual statistics, such as how many class actions are settled every year, how much money is approved every year in these settlements, and how much of that money class action lawyers reap every year. It also includes how these settlements are distributed geographically as well as by litigation area, what sort of relief was provided in the settlements, how long the class actions took to reach settlement, and an analysis of what factors were associated with the fees awarded to class counsel by district court judges.

Second, because this article analyzes settlements that were approved in both published and unpublished opinions, it allows us to assess how well the few prior studies that looked beyond securities cases but relied only on published opinions capture the complete picture of class action settlements. To the extent these prior studies adequately capture the complete picture, it may be less imperative for courts, policymakers, and empirical scholars to spend the considerable resources needed to collect unpublished opinions in order to make sound decisions about how to design our class action system.

Third, this article studies factors that may influence district court judges when they award fees to class counsel that have not been studied before. For example, in light of the discretion district court judges have been delegated over fees under Rule 23, as well as the salience the issue of class action litigation has assumed in national politics, realist theories of judicial behavior would predict that Republican judges would award smaller fee percentages than Democratic judges. I study whether the political beliefs of district court judges are associated with the fees they award and, in doing so, contribute to the literature that attempts to assess the extent to which these beliefs influence the decisions of not just appellate judges, but trial judges as well. Moreover, the article contributes to the small but growing literature examining whether the ideological influences found in published judicial decisions persist when unpublished decisions are examined as well.

In Section II of this article, I briefly survey the existing empirical studies of class action settlements. In Section III, I describe the methodology I used to collect the 2006–2007 federal class action settlements and I report my findings regarding these settlements. District court judges approved 688 class action settlements over this two-year period, involving over \$33 billion. I report a number of descriptive statistics for these settlements, including the number of plaintiff versus defendant classes, the distribution of settlements by subject matter, the age of the case at settlement, the geographic distribution of settlements, the number of settlement classes, the distribution of relief across settlements, and various statistics on the amount of money involved in the settlements. It should be noted that despite the fact that the few prior studies that looked beyond securities settlements appeared to oversample larger settlements, much of the analysis set forth in this article is consistent with these prior studies. This suggests that scholars may not need to sample unpublished as well as published opinions in order to paint an adequate picture of class action settlements.

⁸Of course, I cannot be certain that I found every one of the class actions that settled in federal court over this period. Nonetheless, I am confident that if I did not find some, the number I did not find is small and would not contribute meaningfully to the data reported in this article.

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In Section IV, I perform an analysis of the fees judges awarded to class action lawyers in the 2006-2007 settlements. All told, judges awarded nearly \$5 billion over this two-year period in fees and expenses to class action lawyers, or about 15 percent of the total amount of the settlements. Most federal judges chose to award fees by using the highly discretionary percentage-of-the-settlement method and, unsurprisingly, the fees awarded according to this method varied over a broad range, with a mean and median around 25 percent. Using regression analysis, I confirm prior studies and find that fee percentages are strongly and inversely associated with the size of the settlement. Further, I find that the age of the case is positively associated with fee percentages but that the percentages were not associated with whether the class action was certified as a settlement class. There also appeared to be some variation in fee percentages depending on the subject matter of the litigation and the geographic circuit in which the district court was located. Fee percentages in securities cases were lower than the percentages in some but not all other areas, and district courts in some circuits—the Ninth and the Second (in securities cases)—awarded lower fee percentages than courts in many other circuits. Finally, the regression analysis did not confirm the realist hypothesis: there was no association between fee percentage and the political beliefs of the judge in any regression.

II. Prior Empirical Studies of Class Action Settlements

There are many existing empirical studies of federal securities class action settlements. Studies of securities settlements have been plentiful because for-profit organizations maintain lists of all federal securities class action settlements for the benefit of institutional investors that are entitled to file claims in these settlements. Using these data, studies have shown that since 2005, for example, there have been roughly 100 securities class action settlements in federal court each year, and these settlements have involved between \$7 billion and \$17 billion per year. Cholars have used these data to analyze many different aspects of these settlements, including the factors that are associated with the percentage of

⁹See, e.g., James D. Cox & Randall S. Thomas, Does the Plaintiff Matter? An Empirical Analysis of Lead Plaintiffs in Securities Class Actions, 106 Colum. L. Rev. 1587 (2006); James D. Cox, Randall S. Thomas & Lynn Bai, There are Plaintiffs and . . . there are Plaintiffs: An Empirical Analysis of Securities Class Action Settlements, 61 Vand. L. Rev. 355 (2008); Theodore Eisenberg, Geoffrey Miller & Michael A. Perino, A New Look at Judicial Impact: Attorneys' Fees in Securities Class Actions after Goldberger v. Integrated Resources, Inc., 29 Wash. U.J.L. & Pol'y 5 (2009); Michael A. Perino, Markets and Monitors: The Impact of Competition and Experience on Attorneys' Fees in Securities Class Actions (St. John's Legal Studies, Research Paper No. 06-0034, 2006), available at http://ssrn.com/abstract=870577> [hereinafter Perino, Markets and Monitors]; Michael A. Perino, The Milberg Weiss Prosecution: No Harm, No Foul? (St. John's Legal Studies, Research Paper No. 08-0135, 2008), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1133995> [hereinafter Perino, Milberg Weiss].

 $^{^{10}\}mbox{See}, \mbox{e.g.},$ Risk Metrics Group, available at http://www.riskmetrics.com/scas.

¹¹See Cornerstone Research, Securities Class Action Settlements: 2007 Review and Analysis 1 (2008), available at http://securities.stanford.edu/Settlements/REVIEW_1995-2007/Settlements_Through_12_2007.pdf.

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the settlements that courts have awarded to class action lawyers. ¹² These studies have found that the mean and median fees awarded by district court judges are between 20 percent and 30 percent of the settlement amount. ¹³ These studies have also found that a number of factors are associated with the percentage of the settlement awarded as fees, including (inversely) the size of the settlement, the age of the case, whether a public pension fund was the lead plaintiff, and whether certain law firms were class counsel. ¹⁴ None of these studies has examined whether the political affiliation of the federal district court judge awarding the fees was associated with the size of awards.

There are no comparable organizations that maintain lists of nonsecurities class action settlements. As such, studies of class action settlements beyond the securities area are much rarer and, when they have been done, rely on samples of settlements that were not intended to be representative of the whole. The two largest studies of class action settlements not limited to securities class actions are a 2004 study by Ted Eisenberg and Geoff Miller, 15 which was recently updated to include data through 2008, 16 and a 2003 study by Class Action Reports.¹⁷ The Eisenberg-Miller studies collected data from class action settlements in both state and federal courts found from court opinions published in the Westlaw and Lexis databases and checked against lists maintained by the CCH Federal Securities and Trade Regulation Reporters. Through 2008, their studies have now identified 689 settlements over a 16-year period, or less than 45 settlements per year. 18 Over this 16-year period, their studies found that the mean and median settlement amounts were, respectively, \$116 million and \$12.5 million (in 2008 dollars), and that the mean and median fees awarded by district courts were 23 percent and 24 percent of the settlement, respectively.¹⁹ Their studies also performed an analysis of fee percentages and fee awards. For the data through 2002, they found that the percentage of the settlement awarded as fees was associated with the size of the settlement (inversely), the age of the case, and whether the

¹²See, e.g., Eisenberg, Miller & Perino, supra note 9, at 17–24, 28–36; Perino, Markets and Monitors, supra note 9, at 12–28, 39–44; Perino, Milberg Weiss, supra note 9, at 32–33, 39–60.

¹³See, e.g., Eisenberg, Miller & Perino, supra note 9, at 17–18, 22, 28, 33; Perino, Markets and Monitors, supra note 9, at 20–21, 40; Perino, Milberg Weiss, supra note 9, at 32–33, 51–53.

¹⁴See, e.g., Eisenberg, Miller & Perino, supra note 9, at 14–24, 29–30, 33–34; Perino, Markets and Monitors, supra note 9, at 20–28, 41; Perino, Milberg Weiss, supra note 9, at 39–58.

¹⁵See Theodore Eisenberg & Geoffrey Miller, Attorney Fees in Class Action Settlements: An Empirical Study, 1 J. Empirical Legal Stud. 27 (2004).

 ¹⁶See Theodore Eisenberg & Geoffrey Miller, Attorneys' Fees and Expenses in Class Action Settlements: 1993–2008,
 ⁷ J. Empirical Legal Stud. 248 (2010) [hereinafter Eisenberg & Miller II].

¹⁷See Stuart J. Logan, Jack Moshman & Beverly C. Moore, Jr., Attorney Fee Awards in Common Fund Class Actions, 24 Class Action Rep. 169 (Mar.–Apr. 2003).

¹⁸See Eisenberg & Miller II, supra note 16, at 251.

¹⁹Id. at 258-59.

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district court went out of its way to comment on the level of risk that class counsel had assumed in pursuing the case.²⁰ For the data through 2008, they regressed only fee awards and found that the awards were inversely associated with the size of the settlement, that state courts gave lower awards than federal courts, and that the level of risk was still associated with larger awards.²¹ Their studies have not examined whether the political affiliations of the federal district court judges awarding fees were associated with the size of the awards.

The Class Action Reports study collected data on 1,120 state and federal settlements over a 30-year period, or less than 40 settlements per year.²² Over the same 10-year period analyzed by the Eisenberg-Miller study, the Class Action Reports data found mean and median settlements of \$35.4 and \$7.6 million (in 2002 dollars), as well as mean and median fee percentages between 25 percent and 30 percent.²³ Professors Eisenberg and Miller performed an analysis of the fee awards in the Class Action Reports study and found the percentage of the settlement awarded as fees was likewise associated with the size of the settlement (inversely) and the age of the case.²⁴

III. Federal Class Action Settlements, 2006 and 2007

As far as I am aware, there has never been an empirical study of all federal class action settlements in a particular year. In this article, I attempt to make such a study for two recent years: 2006 and 2007. To compile a list of all federal class settlements in 2006 and 2007, I started with one of the aforementioned lists of securities settlements, the one maintained by RiskMetrics, and I supplemented this list with settlements that could be found through three other sources: (1) broad searches of district court opinions in the Westlaw and Lexis databases, ²⁵ (2) four reporters of class action settlements—*BNA Class Action Litigation Report, Mealey's Jury Verdicts and Settlements, Mealey's Litigation Report*, and the *Class Action World* website ²⁶—and (3) a list from the Administrative Office of Courts of all district court cases

²⁰See Eisenberg & Miller, supra note 15, at 61–62.

²¹See Eisenberg & Miller II, supra note 16, at 278.

²²See Eisenberg & Miller, supra note 15, at 34.

²³Id. at 47, 51.

²⁴Id. at 61-62.

²⁵The searches consisted of the following terms: ("class action" & (settle! /s approv! /s (2006 2007))); (((counsel attorney) /s fee /s award!) & (settle! /s (2006 2007)) & "class action"); ("class action" /s settle! & da(aft 12/31/2005 & bef 1/1/2008)); ("class action" /s (fair reasonable adequate) & da(aft 12/31/2005 & bef 1/1/2008)).

²⁶See http://classactionworld.com/>.

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coded as class actions that terminated by settlement between 2005 and 2008.²⁷ I then removed any duplicate cases and examined the docket sheets and court orders of each of the remaining cases to determine whether the cases were in fact certified as class actions under either Rule 23, Rule 23.1, or Rule 23.2.²⁸ For each of the cases verified as such, I gathered the district court's order approving the settlement, the district court's order awarding attorney fees, and, in many cases, the settlement agreements and class counsel's motions for fees, from electronic databases (such as Westlaw or PACER) and, when necessary, from the clerk's offices of the various federal district courts. In this section, I report the characteristics of the settlements themselves; in the next section, I report the characteristics of the attorney fees awarded to class counsel by the district courts that approved the settlements.

A. Number of Settlements

I found 688 settlements approved by federal district courts during 2006 and 2007 using the methodology described above. This is almost the exact same number the Eisenberg-Miller study found over a 16-year period in both federal and state court. Indeed, the number of annual settlements identified in this study is several times the number of annual settlements that have been identified in any prior empirical study of class action settlements. Of the 688 settlements I found, 304 were approved in 2006 and 384 were approved in 2007.²⁹

B. Defendant Versus Plaintiff Classes

Although Rule 23 permits federal judges to certify either a class of plaintiffs or a class of defendants, it is widely assumed that it is extremely rare for courts to certify defendant classes.³⁰ My findings confirm this widely held assumption. Of the 688 class action settlements approved in 2006 and 2007, 685 involved plaintiff classes and only three involved

²⁷I examined the AO lists in the year before and after the two-year period under investigation because the termination date recorded by the AO was not necessarily the same date the district court approved the settlement.

²⁸See Fed. R. Civ. P. 23, 23.1, 23.2. I excluded from this analysis opt-in collective actions, such as those brought pursuant to the provisions of the Fair Labor Standards Act (see 29 U.S.C. § 216(b)), if such actions did not also include claims certified under the opt-out mechanism in Rule 23.

²⁹A settlement was assigned to a particular year if the district court judge's order approving the settlement was dated between January 1 and December 31 of that year. Cases involving multiple defendants sometimes settled over time because defendants would settle separately with the plaintiff class. All such partial settlements approved by the district court on the same date were treated as one settlement. Partial settlements approved by the district court on different dates were treated as different settlements.

³⁰See, e.g., Robert H. Klonoff, Edward K.M. Bilich & Suzette M. Malveaux, Class Actions and Other Multi-Party Litigation: Cases and Materials 1061 (2d ed. 2006).

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defendant classes. All three of the defendant-class settlements were in employment benefits cases, where companies sued classes of current or former employees.³¹

C. Settlement Subject Areas

Although courts are free to certify Rule 23 classes in almost any subject area, it is widely assumed that securities settlements dominate the federal class action docket.³² At least in terms of the number of settlements, my findings reject this conventional wisdom. As Table 1 shows, although securities settlements comprised a large percentage of the 2006 and 2007 settlements, they did not comprise a majority of those settlements. As one would have

Table 1: The Number of Class Action Settlements Approved by Federal Judges in 2006 and 2007 in Each Subject Area

Subject Matter	Number of Settlements		
	2006	2007	
Securities	122 (40%)	135 (35%)	
Labor and employment	41 (14%)	53 (14%)	
Consumer	40 (13%)	47 (12%)	
Employee benefits	23 (8%)	38 (10%)	
Civil rights	24 (8%)	37 (10%)	
Debt collection	19 (6%)	23 (6%)	
Antitrust	13 (4%)	17 (4%)	
Commercial	4 (1%)	9 (2%)	
Other	18 (6%)	25 (6%)	
Total	304	384	

Note: Securities: cases brought under federal and state securities laws. Labor and employment: workplace claims brought under either federal or state law, with the exception of ERISA cases. Consumer: cases brought under the Fair Credit Reporting Act as well as cases for consumer fraud and the like. Employee benefits: ERISA cases. Civil rights: cases brought under 42 U.S.C. § 1983 or cases brought under the Americans with Disabilities Act seeking nonworkplace accommodations. Debt collection: cases brought under the Fair Debt Collection Practices Act. Antitrust: cases brought under federal or state antitrust laws. Commercial: cases between businesses, excluding antitrust cases. Other: includes, among other things, derivative actions against corporate managers and directors, environmental suits, insurance suits, Medicare and Medicaid suits, product liability suits, and mass tort suits.

Sources: Westlaw, PACER, district court clerks' offices.

³¹See Halliburton Co. v. Graves, No. 04-00280 (S.D. Tex., Sept. 28, 2007); Rexam, Inc. v. United Steel Workers of Am., No. 03-2998 (D. Minn. Aug. 29, 2007); Rexam, Inc. v. United Steel Workers of Am., No. 03-2998 (D. Minn. Sept. 17, 2007).

³²See, e.g., John C. Coffee, Jr., Reforming the Security Class Action: An Essay on Deterrence and its Implementation, 106 Colum. L. Rev. 1534, 1539–40 (2006) (describing securities class actions as "the 800-pound gorilla that dominates and overshadows other forms of class actions").

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expected in light of Supreme Court precedent over the last two decades,³³ there were almost no mass tort class actions (included in the "Other" category) settled over the two-year period.

Although the Eisenberg-Miller study through 2008 is not directly comparable on the distribution of settlements across litigation subject areas—because its state and federal court data cannot be separated (more than 10 percent of the settlements were from state court³⁴) and because it excludes settlements in fee-shifting cases—their study through 2008 is the best existing point of comparison. Interestingly, despite the fact that state courts were included in their data, their study through 2008 found about the same percentage of securities cases (39 percent) as my 2006–2007 data set shows.³⁵ However, their study found many more consumer (18 percent) and antitrust (10 percent) cases, while finding many fewer labor and employment (8 percent), employee benefits (6 percent), and civil rights (3 percent) cases.³⁶ This is not unexpected given their reliance on published opinions and their exclusion of fee-shifting cases.

D. Settlement Classes

The Federal Rules of Civil Procedure permit parties to seek certification of a suit as a class action for settlement purposes only.³⁷ When the district court certifies a class in such circumstances, the court need not consider whether it would be manageable to try the litigation as a class.³⁸ So-called settlement classes have always been more controversial than classes certified for litigation because they raise the prospect that, at least where there are competing class actions filed against the same defendant, the defendant could play class counsel off one another to find the one willing to settle the case for the least amount of money.³⁹ Prior to the Supreme Court's 1997 opinion in *Amchem Products, Inc. v. Windsor*,⁴⁰ it was uncertain whether the Federal Rules even permitted settlement classes. It may therefore be a bit surprising to learn that 68 percent of the federal settlements in 2006 and 2007 were settlement classes. This percentage is higher than the percentage found in the Eisenberg-Miller studies, which found that only 57 percent of class action settlements in

³³See, e.g., Samuel Issacharoff, Private Claims, Aggregate Rights, 2008 Sup. Ct. Rev. 183, 208.

 $^{^{34}\!\}mathrm{See}$ Eisenberg & Miller II, supra note 16, at 257.

³⁵Id. at 262.

 $^{^{36}}$ Id.

³⁷See Martin H. Redish, Settlement Class Actions, The Case-or-Controversy Requirement, and the Nature of the Adjudicatory Process, 73 U. Chi. L. Rev. 545, 553 (2006).

³⁸See Amchem Prods., Inc v Windsor, 521 U.S. 591, 620 (1997).

³⁹See Redish, supra note 368, at 557-59.

⁴⁰⁵²¹ U.S. 591 (1997).

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state and federal court between 2003 and 2008 were settlement classes. ⁴¹ It should be noted that the distribution of litigation subject areas among the settlement classes in my 2006–2007 federal data set did not differ much from the distribution among nonsettlement classes, with two exceptions. One exception was consumer cases, which were nearly three times as prevalent among settlement classes (15.9 percent) as among nonsettlement classes (5.9 percent); the other was civil rights cases, which were four times as prevalent among nonsettlement classes (18.0 percent) as among settlements classes (4.5 percent). In light of the skepticism with which the courts had long treated settlement classes, one might have suspected that courts would award lower fee percentages in such settlements. Nonetheless, as I report in Section III, whether a case was certified as a settlement class was not associated with the fee percentages awarded by federal district court judges.

E. The Age at Settlement

One interesting question is how long class actions were litigated before they reached settlement. Unsurprisingly, cases reached settlement over a wide range of ages. ⁴² As shown in Table 2, the average time to settlement was a bit more than three years (1,196 days) and the median time was a bit under three years (1,068 days). The average and median ages here are similar to those found in the Eisenberg-Miller study through 2002, which found averages of 3.35 years in fee-shifting cases and 2.86 years in non-fee-shifting cases, and

Table 2: The Number of Days, 2006–2007, Federal Class Action Cases Took to Reach Settlement in Each Subject Area

Subject Matter	Average	Median	Minimum	Maximum
Securities	1,438	1,327	392	3,802
Labor and employment	928	786	105	2,497
Consumer	963	720	127	4,961
Employee benefits	1,162	1,161	164	3,157
Civil rights	1,373	1,360	181	3,354
Debt collection	738	673	223	1,973
Antitrust	1,140	1,167	237	2,480
Commercial	1,267	760	163	5,443
Other	1,065	962	185	3,620
All	1,196	1,068	105	5,443

SOURCE: PACER.

⁴¹See Eisenberg & Miller II, supra note 16, at 266.

⁴²The age of the case was calculated by subtracting the date the relevant complaint was filed from the date the settlement was approved by the district court judge. The dates were taken from PACER. For consolidated cases, I used the date of the earliest complaint. If the case had been transferred, consolidated, or removed, the date the complaint was filed was not always available from PACER. In such cases, I used the date the case was transferred, consolidated, or removed as the start date.

medians of 4.01 years in fee-shifting cases and 3.0 years in non-fee-shifting cases.⁴³ Their study through 2008 did not report case ages.

The shortest time to settlement was 105 days in a labor and employment case.⁴⁴ The longest time to settlement was nearly 15 years (5,443 days) in a commercial case.⁴⁵ The average and median time to settlement varied significantly by litigation subject matter, with securities cases generally taking the longest time and debt collection cases taking the shortest time. Labor and employment cases and consumer cases also settled relatively early.

F. The Location of Settlements

The 2006–2007 federal class action settlements were not distributed across the country in the same way federal civil litigation is in general. As Figure 1 shows, some of the geographic circuits attracted much more class action attention than we would expect based on their docket size, and others attracted much less. In particular, district courts in the First, Second, Seventh, and Ninth Circuits approved a much larger share of class action settlements than the share of all civil litigation they resolved, with the First, Second, and Seventh Circuits approving nearly double the share and the Ninth Circuit approving one-and-one-half times the share. By contrast, the shares of class action settlements approved by district courts in the Fifth and Eighth Circuits were less than one-half of their share of all civil litigation, with the Third, Fourth, and Eleventh Circuits also exhibiting significant underrepresentation.

With respect to a comparison with the Eisenberg-Miller studies, their federal court data through 2008 can be separated from their state court data on the question of the geographic distribution of settlements, and there are some significant differences between their federal data and the numbers reflected in Figure 1. Their study reported considerably higher proportions of settlements than I found from the Second (23.8 percent), Third (19.7 percent), Eighth (4.8 percent), and D.C. (3.3 percent) Circuits, and considerably lower proportions from the Fourth (1.3 percent), Seventh (6.8 percent), and Ninth (16.6 percent) Circuits. 46

Figure 2 separates the class action settlement data in Figure 1 into securities and nonsecurities cases. Figure 2 suggests that the overrepresentation of settlements in the First and Second Circuits is largely attributable to securities cases, whereas the overrepresentation in the Seventh Circuit is attributable to nonsecurities cases, and the overrepresentation in the Ninth is attributable to both securities and nonsecurities cases.

It is interesting to ask why some circuits received more class action attention than others. One hypothesis is that class actions are filed in circuits where class action lawyers

⁴³See Eisenberg & Miller, supra note 15, at 59-60.

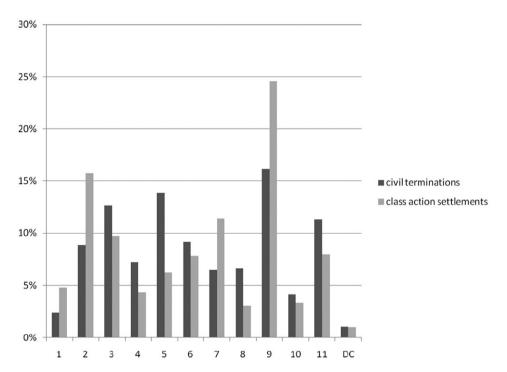
⁴⁴See Clemmons v. Rent-a-Center W., Inc., No. 05-6307 (D. Or. Jan. 20, 2006).

⁴⁵See Allapattah Servs. Inc. v. Exxon Corp., No. 91-0986 (S.D. Fla. Apr. 7, 2006).

⁴⁶See Eisenberg & Miller II, supra note 16, at 260.

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Figure 1: The percentage of 2006–2007 district court civil terminations and class action settlements in each federal circuit.



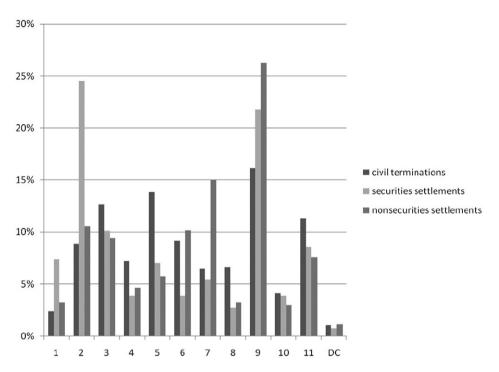
Sources: PACER, Statistical Tables for the Federal Judiciary 2006 & 2007 (available at http://www.uscourts.gov/stats/index.html).

believe they can find favorable law or favorable judges. Federal class actions often involve class members spread across multiple states and, as such, class action lawyers may have a great deal of discretion over the district in which file suit.⁴⁷ One way law or judges may be favorable to class action attorneys is with regard to attorney fees. In Section III, I attempt to test whether district court judges in the circuits with the most over- and undersubscribed class action dockets award attorney fees that would attract or discourage filings there; I find no evidence that they do.

Another hypothesis is that class action suits are settled in jurisdictions where defendants are located. This might be the case because although class action lawyers may have discretion over where to file, venue restrictions might ultimately restrict cases to jurisdic-

⁴⁷See Samuel Issacharoff & Richard Nagareda, Class Settlements Under Attack, 156 U. Pa. L. Rev. 1649, 1662 (2008).

Figure 2: The percentage of 2006–2007 district court civil terminations and class action settlements in each federal circuit.



Sources: PACER, Statistical Tables for the Federal Judiciary 2006 & 2007 (available at http://www.uscourts.gov/stats/index.html).

tions in which defendants have their corporate headquarters or other operations. ⁴⁸ This might explain why the Second Circuit, with the financial industry in New York, sees so many securities suits, and why other circuits with cities with a large corporate presence, such as the First (Boston), Seventh (Chicago), and Ninth (Los Angeles and San Francisco), see more settlements than one would expect based on the size of their civil dockets.

Another hypothesis might be that class action lawyers file cases wherever it is most convenient for them to litigate the cases—that is, in the cities in which their offices are located. This, too, might explain the Second Circuit's overrepresentation in securities settlements, with prominent securities firms located in New York, as well as the

⁴⁸See 28 U.S.C. §§ 1391, 1404, 1406, 1407. See also Foster v. Nationwide Mut. Ins. Co., No. 07-04928, 2007 U.S. Dist. LEXIS 95240 at *2–17 (N.D. Cal. Dec. 14, 2007) (transferring venue to jurisdiction where defendant's corporate headquarters were located). One prior empirical study of securities class action settlements found that 85 percent of such cases are filed in the home circuit of the defendant corporation. See James D. Cox, Randall S. Thomas & Lynn Bai, Do Differences in Pleading Standards Cause Forum Shopping in Securities Class Actions?: Doctrinal and Empirical Analyses, 2009 Wis. L. Rev. 421, 429, 440, 450–51 (2009).

overrepresentation of other settlements in some of the circuits in which major metropolitan areas with prominent plaintiffs' firms are found.

G. Type of Relief

Under Rule 23, district court judges can certify class actions for injunctive or declaratory relief, for money damages, or for a combination of the two.⁴⁹ In addition, settlements can provide money damages both in the form of cash as well as in the form of in-kind relief, such as coupons to purchase the defendant's products.⁵⁰

As shown in Table 3, the vast majority of class actions settled in 2006 and 2007 provided cash relief to the class (89 percent), but a substantial number also provided in-kind relief (6 percent) or injunctive or declaratory relief (23 percent). As would be

Table 3: The Percentage of 2006 and 2007 Class Action Settlements Providing Each Type of Relief in Each Subject Area

Subject Matter	Cash	In-Kind Relief	Injunctive or Declaratory Relief
Securities $(n = 257)$	100%	0%	2%
Labor and employment $(n = 94)$	95%	6%	29%
Consumer $(n = 87)$	74%	30%	37%
Employee benefits $(n = 61)$	90%	0%	34%
Civil rights $(n = 61)$	49%	2%	75%
Debt collection $(n = 42)$	98%	0%	12%
Antitrust $(n = 30)$	97%	13%	7%
Commercial $(n = 13)$	92%	0%	62%
Other $(n = 43)$	77%	7%	33%
All $(n = 688)$	89%	6%	23%

Note: Cash: cash, securities, refunds, charitable contributions, contributions to employee benefit plans, forgiven debt, relinquishment of liens or claims, and liquidated repairs to property. In-kind relief: vouchers, coupons, gift cards, warranty extensions, merchandise, services, and extended insurance policies. Injunctive or declaratory relief: modification of terms of employee benefit plans, modification of compensation practices, changes in business practices, capital improvements, research, and unliquidated repairs to property.

Sources: Westlaw, PACER, district court clerks' offices.

⁴⁹See Fed. R. Civ. P. 23(b).

⁵⁰These coupon settlements have become very controversial in recent years, and Congress discouraged them in the Class Action Fairness Act of 2005 by tying attorney fees to the value of coupons that were ultimately redeemed by class members as opposed to the value of coupons offered class members. See 28 U.S.C. § 1712.

expected in light of the focus on consumer cases in the debate over the anti-coupon provision in the Class Action Fairness Act of 2005,⁵¹ consumer cases had the greatest percentage of settlements providing for in-kind relief (30 percent). Civil rights cases had the greatest percentage of settlements providing for injunctive or declaratory relief (75 percent), though almost half the civil rights cases also provided some cash relief (49 percent). The securities settlements were quite distinctive from the settlements in other areas in their singular focus on cash relief: every single securities settlement provided cash to the class and almost none provided in-kind, injunctive, or declaratory relief. This is but one example of how the focus on securities settlements in the prior empirical scholarship can lead to a distorted picture of class action litigation.

H. Settlement Money

Although securities settlements did not comprise the majority of federal class action settlements in 2006 and 2007, they did comprise the majority of the money—indeed, the *vast majority* of the money—involved in class action settlements. In Table 4, I report the total amount of ascertainable value involved in the 2006 and 2007 settlements. This amount

Table 4: The Total Amount of Money Involved in Federal Class Action Settlements in 2006 and 2007

Subject Matter	Total Ascertainable Monetary Value in Settlements (and Percentage of Overall Annual Total)				
	2000 (n = 3		2000 (n = 3		
Securities	\$16,728	76%	\$8,038	73%	
Labor and employment	\$266.5	1%	\$547.7	5%	
Consumer	\$517.3	2%	\$732.8	7%	
Employee benefits	\$443.8	2%	\$280.8	3%	
Civil rights	\$265.4	1%	\$81.7	1%	
Debt collection	\$8.9	<1%	\$5.7	<1%	
Antitrust	\$1,079	5%	\$660.5	6%	
Commercial	\$1,217	6%	\$124.0	1%	
Other	\$1,568	7%	\$592.5	5%	
Total	\$22,093	100%	\$11,063	100%	

NOTE: Dollar amounts are in millions. Includes all determinate payments in cash or cash equivalents (such as marketable securities), including attorney fees and expenses, as well as any in-kind relief (such as coupons) or injunctive relief that was valued by the district court.

Sources: Westlaw, PACER, district court clerks' offices.

⁵¹See, e.g., 151 Cong. Rec. H723 (2005) (statement of Rep. Sensenbrenner) (arguing that consumers are "seeing all of their gains go to attorneys and them just getting coupon settlements from the people who have allegedly done them wrong").

includes all determinate⁵² payments in cash or cash equivalents (such as marketable securities), including attorney fees and expenses, as well as any in-kind relief (such as coupons) or injunctive relief that was valued by the district court.⁵³ I did not attempt to assign a value to any relief that was not valued by the district court (even if it may have been valued by class counsel). It should be noted that district courts did not often value in-kind or injunctive relief—they did so only 18 percent of the time—and very little of Table 4—only \$1.3 billion, or 4 percent—is based on these valuations. It should also be noted that the amounts in Table 4 reflect only what defendants *agreed to pay*; they do not reflect the amounts that defendants *actually paid* after the claims administration process concluded. Prior empirical research has found that, depending on how settlements are structured (e.g., whether they awarded a fixed amount of money to each class member who eventually files a valid claim or a pro rata amount of a fixed settlement to each class member), defendants can end up paying much less than they agreed.⁵⁴

Table 4 shows that in both years, around three-quarters of all the money involved in federal class action settlements came from securities cases. Thus, in this sense, the conventional wisdom about the dominance of securities cases in class action litigation is correct. Figure 3 is a graphical representation of the contribution each litigation area made to the total number and total amount of money involved in the 2006–2007 settlements.

Table 4 also shows that, in total, over \$33 billion was approved in the 2006–2007 settlements. Over \$22 billion was approved in 2006 and over \$11 billion in 2007. It should be emphasized again that the totals in Table 4 understate the amount of money defendants agreed to pay in class action settlements in 2006 and 2007 because they exclude the unascertainable value of those settlements. This understatement disproportionately affects litigation areas, such as civil rights, where much of the relief is injunctive because, as I noted, very little of such relief was valued by district courts. Nonetheless, these numbers are, as far as I am aware, the first attempt to calculate how much money is involved in federal class action settlements in a given year.

The significant discrepancy between the two years is largely attributable to the 2006 securities settlement related to the collapse of Enron, which totaled \$6.6 billion, as well as to the fact that seven of the eight 2006–2007 settlements for more than \$1 billion were approved in 2006.⁵⁵ Indeed, it is worth noting that the eight settlements for more than \$1

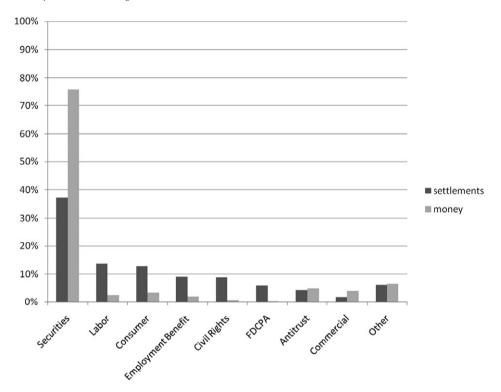
⁵²For example, I excluded awards of a fixed amount of money to each class member who eventually filed a valid claim (as opposed to settlements that awarded a pro rata amount of a fixed settlement to each class member) if the total amount of money set aside to pay the claims was not set forth in the settlement documents.

⁵³In some cases, the district court valued the relief in the settlement over a range. In these cases, I used the middle point in the range.

⁵⁴See Hensler et al., supra note 7, at 427-30.

⁵⁵See In re Enron Corp. Secs. Litig., MDL 1446 (S.D. Tex. May 24, 2006) (\$6,600,000,000); In re Tyco Int'l Ltd. Multidistrict Litig., MDL 02-1335 (D.N.H. Dec. 19, 2007) (\$3,200,000,000); In re AOL Time Warner, Inc. Secs. & "ERISA" Litig., MDL 1500 (S.D.N.Y. Apr. 6, 2006) (\$2,500,000,000); In re: Diet Drugs Prods. Liab. Litig., MDL 1203 (E.D. Pa. May 24, 2006) (\$1,275,000,000); In re Nortel Networks Corp. Secs. Litig. (Nortel I), No. 01-1855 (S.D.N.Y. Dec. 26, 2006) (\$1,142,780,000); In re Royal Ahold N.V. Secs. & ERISA Litig., 03-1539 (D. Md. Jun. 16, 2006)

Figure 3: The percentage of 2006–2007 federal class action settlements and settlement money from each subject area.



billion accounted for almost \$18 billion of the \$33 billion that changed hands over the two-year period. That is, a mere 1 percent of the settlements comprised over 50 percent of the value involved in federal class action settlements in 2006 and 2007. To give some sense of the distribution of settlement size in the 2006–2007 data set, Table 5 sets forth the number of settlements with an ascertainable value beyond fee, expense, and class-representative incentive awards (605 out of the 688 settlements). Nearly two-thirds of all settlements fell below \$10 million.

Given the disproportionate influence exerted by securities settlements on the total amount of money involved in class actions, it is unsurprising that the average securities settlement involved more money than the average settlement in most of the other subject areas. These numbers are provided in Table 6, which includes, again, only the settlements

^(\$1,100,000,000); Allapattah Servs. Inc. v. Exxon Corp., No. 91-0986 (S.D. Fla. Apr. 7, 2006) (\$1,075,000,000); In re Nortel Networks Corp. Secs. Litig. (Nortel II), No. 05-1659 (S.D.N.Y. Dec. 26, 2006) (\$1,074,270,000).

Table 5: The Distribution by Size of 2006–2007 Federal Class Action Settlements with Ascertainable Value

Settlement Size (in Millions)	Number of Settlement
[\$0 to \$1]	131
	(21.7%)
(\$1 to \$10]	261
	(43.1%)
(\$10 to \$50]	139
	(23.0%)
(\$50 to \$100]	33
	(5.45%)
(\$100 to \$500]	31
	(5.12%)
(\$500 to \$6,600]	10
	(1.65%)
Total	605

NOTE: Includes only settlements with ascertainable value beyond merely fee, expense, and class-representative incentive awards.

SOURCES: Westlaw, PACER, district court clerks' offices.

Table 6: The Average and Median Settlement Amounts in the 2006–2007 Federal Class Action Settlements with Ascertainable Value to the Class

Subject Matter	Average	Median
Securities $(n = 257)$	\$96.4	\$8.0
Labor and employment $(n = 88)$	\$9.2	\$1.8
Consumer $(n = 65)$	\$18.8	\$2.9
Employee benefits $(n = 52)$	\$13.9	\$5.3
Civil rights $(n = 34)$	\$9.7	\$2.5
Debt collection $(n = 40)$	\$0.37	\$0.088
Antitrust $(n = 29)$	\$60.0	\$22.0
Commercial $(n = 12)$	\$111.7	\$7.1
Other $(n = 28)$	\$76.6	\$6.2
All (N = 605)	\$54.7	\$5.1

NOTE: Dollar amounts are in millions. Includes only settlements with ascertainable value beyond merely fee, expense, and class-representative incentive awards.

Sources: Westlaw, PACER, district court clerks' offices.

with an ascertainable value beyond fee, expense, and class-representative incentive awards. The average settlement over the entire two-year period for all types of cases was almost \$55 million, but the median was only \$5.1 million. (With the \$6.6 billion Enron settlement excluded, the average settlement for all ascertainable cases dropped to \$43.8 million and, for securities cases, dropped to \$71.0 million.) The average settlements varied widely by litigation area, with securities and commercial settlements at the high end of around \$100

million, but the median settlements for nearly every area were bunched around a few million dollars. It should be noted that the high average for commercial cases is largely due to one settlement above \$1 billion;⁵⁶ when that settlement is removed, the average for commercial cases was only \$24.2 million.

Table 6 permits comparison with the two prior empirical studies of class action settlements that sought to include nonsecurities as well as securities cases in their purview. The Eisenberg-Miller study through 2002, which included both common-fund and feeshifting cases, found that the mean class action settlement was \$112 million and the median was \$12.9 million, both in 2006 dollars, ⁵⁷ more than double the average and median I found for all settlements in 2006 and 2007. The Eisenberg-Miller update through 2008 included only common-fund cases and found mean and median settlements in federal court of \$115 million and \$11.7 million (both again in 2006 dollars), 58 respectively; this is still more than double the average and median I found. This suggests that the methodology used by the Eisenberg-Miller studies—looking at district court opinions that were published in Westlaw or Lexis—oversampled larger class actions (because opinions approving larger class actions are, presumably, more likely to be published than opinions approving smaller ones). It is also possible that the exclusion of fee-shifting cases from their data through 2008 contributed to this skew, although, given that their data through 2002 included fee-shifting cases and found an almost identical mean and median as their data through 2008, the primary explanation for the much larger mean and median in their study through 2008 is probably their reliance on published opinions. Over the same years examined by Professors Eisenberg and Miller, the Class Action Reports study found a smaller average settlement than I did (\$39.5 million in 2006 dollars), but a larger median (\$8.48 million in 2006 dollars). It is possible that the Class Action Reports methodology also oversampled larger class actions, explaining its larger median, but that there are more "mega" class actions today than there were before 2003, explaining its smaller mean.⁵⁹

It is interesting to ask how significant the \$16 billion that was involved annually in these 350 or so federal class action settlements is in the grand scheme of U.S. litigation. Unfortunately, we do not know how much money is transferred every year in U.S. litigation. The only studies of which I am aware that attempt even a partial answer to this question are the estimates of how much money is transferred in the U.S. "tort" system every year by a financial services consulting firm, Tillinghast-Towers Perrin. ⁶⁰ These studies are not directly

⁵⁶See Allapattah Servs. Inc. v. Exxon Corp., No. 91-0986 (S.D. Fla. Apr. 7, 2006) (approving \$1,075,000,000 settlement).

⁵⁷See Eisenberg & Miller, supra note 15, at 47.

⁵⁸See Eisenberg & Miller II, supra note 16, at 262.

⁵⁹There were eight class action settlements during 2006 and 2007 of more than \$1 billion. See note 55 supra.

⁶⁰Some commentators have been critical of Tillinghast's reports, typically on the ground that the reports overestimate the cost of the tort system. See M. Martin Boyer, Three Insights from the Canadian D&O Insurance Market: Inertia, Information and Insiders, 14 Conn. Ins. L.J. 75, 84 (2007); John Fabian Witt, Form and Substance in the Law of

comparable to the class action settlement numbers because, again, the number of tort class action settlements in 2006 and 2007 was very small. Nonetheless, as the tort system no doubt constitutes a large percentage of the money transferred in all litigation, these studies provide something of a point of reference to assess the significance of class action settlements. In 2006 and 2007, Tillinghast-Towers Perrin estimated that the U.S. tort system transferred \$160 billion and \$164 billion, respectively, to claimants and their lawyers. ⁶¹ The total amount of money involved in the 2006 and 2007 federal class action settlements reported in Table 4 was, therefore, roughly 10 percent of the Tillinghast-Towers Perrin estimate. This suggests that in merely 350 cases every year, federal class action settlements involve the same amount of wealth as 10 percent of the entire U.S. tort system. It would seem that this is a significant amount of money for so few cases.

IV. Attorney Fees in Federal Class Action Settlements, 2006 and 2007

A. Total Amount of Fees and Expenses

As I demonstrated in Section III, federal class action settlements involved a great deal of money in 2006 and 2007, some \$16 billion a year. A perennial concern with class action litigation is whether class action lawyers are reaping an outsized portion of this money. End 2006–2007 federal class action data suggest that these concerns may be exaggerated. Although class counsel were awarded some \$5 billion in fees and expenses over this period, as shown in Table 7, only 13 percent of the settlement amount in 2006 and 20 percent of the amount in 2007 went to fee and expense awards. The 2006 percentage is lower than the 2007 percentage in large part because the class action lawyers in the Enron securities settlement received less than 10 percent of the \$6.6 billion corpus. In any event, the percentages in both 2006 and 2007 are far lower than the portions of settlements that contingency-fee lawyers receive in individual litigation, which are usually at least 33 percent. Lawyers received less than 33 percent of settlements in fees and expenses in virtually every subject area in both years.

Counterinsurgency Damages, 41 Loy. L.A.L. Rev. 1455, 1475 n.135 (2008). If these criticisms are valid, then class action settlements would appear even more significant as compared to the tort system.

⁶¹See Tillinghast-Towers Perrin, U.S. Tort Costs: 2008 Update 5 (2008). The report calculates \$252 billion in total tort "costs" in 2007 and \$246.9 billion in 2006, id., but only 65 percent of those costs represent payments made to claimants and their lawyers (the remainder represents insurance administration costs and legal costs to defendants). See Tillinghast-Towers Perrin, U.S. Tort Costs: 2003 Update 17 (2003).

⁶²See, e.g., Brian T. Fitzpatrick, Do Class Action Lawyers Make Too Little? 158 U. Pa. L. Rev. 2043, 2043–44 (2010).

⁶³In some of the partial settlements, see note 29 supra, the district court awarded expenses for all the settlements at once and it was unclear what portion of the expenses was attributable to which settlement. In these instances, I assigned each settlement a pro rata portion of expenses. To the extent possible, all the fee and expense numbers in this article exclude any interest known to be awarded by the courts.

⁶⁴See, e.g., Herbert M. Kritzer, The Wages of Risk: The Returns of Contingency Fee Legal Practice, 47 DePaul L. Rev. 267, 284–86 (1998) (reporting results of a survey of Wisconsin lawyers).

Table 7: The Total Amount of Fees and Expenses Awarded to Class Action Lawyers in Federal Class Action Settlements in 2006 and 2007

	Total Fees and Expenses Awarded in Settlements (and as Percentage of Total Settlement Amounts) in Each Subject Area			
Subject Matter	2006 (n = 292)	2007 (n = 363)		
Securities	\$1,899 (11%)	\$1,467 (20%)		
Labor and employment	\$75.1 (28%)	\$144.5 (26%)		
Consumer	\$126.4 (24%)	\$65.3 (9%)		
Employee benefits	\$57.1 (13%)	\$71.9 (26%)		
Civil rights	\$31.0 (12%)	\$32.2 (39%)		
Debt collection	\$2.5 (28%)	\$1.1 (19%)		
Antitrust	\$274.6 (26%)	\$157.3 (24%)		
Commercial	\$347.3 (29%)	\$18.2 (15%)		
Other	\$119.3 (8%)	\$103.3 (17%)		
Total	\$2,932 (13%)	\$2,063 (20%)		

NOTE: Dollar amounts are in millions. Excludes settlements in which fees were not (or at least not yet) sought (22 settlements), settlements in which fees have not yet been awarded (two settlements), and settlements in which fees could not be ascertained due to indefinite award amounts, missing documents, or nonpublic side agreements (nine settlements).

Sources: Westlaw, PACER, district court clerks' offices.

It should be noted that, in some respects, the percentages in Table 7 overstate the portion of settlements that were awarded to class action attorneys because, again, many of these settlements involved indefinite cash relief or noncash relief that could not be valued. ⁶⁵ If the value of all this relief could have been included, then the percentages in Table 7 would have been even lower. On the other hand, as noted above, not all the money defendants agree to pay in class action settlements is ultimately collected by the class. ⁶⁶ To the extent leftover money is returned to the defendant, the percentages in Table 7 understate the portion class action lawyers received relative to their clients.

B. Method of Awarding Fees

District court judges have a great deal of discretion in how they set fee awards in class action cases. Under Rule 23, federal judges are told only that the fees they award to class counsel

⁶⁵Indeed, the large year-to-year variation in the percentages in labor, consumer, and employee benefits cases arose because district courts made particularly large valuations of the equitable relief in a few settlements and used the lodestar method to calculate the fees in these settlements (and thereby did not consider their large valuations in calculating the fees).

⁶⁶See Hensler et al., supra note 7, at 427-30.

must be "reasonable." 67 Courts often exercise this discretion by choosing between two approaches: the lodestar approach or the percentage-of-the-settlement approach.⁶⁸ The lodestar approach works much the way it does in individual litigation: the court calculates the fee based on the number of hours class counsel actually worked on the case multiplied by a reasonable hourly rate and a discretionary multiplier.⁶⁹ The percentage-of-thesettlement approach bases the fee on the size of the settlement rather than on the hours class counsel actually worked: the district court picks a percentage of the settlement it thinks is reasonable based on a number of factors, one of which is often the fee lodestar (sometimes referred to as a "lodestar cross-check"). 70 My 2006–2007 data set shows that the percentage-of-the-settlement approach has become much more common than the lodestar approach. In 69 percent of the settlements reported in Table 7, district court judges employed the percentage-of-the-settlement method with or without the lodestar crosscheck. They employed the lodestar method in only 12 percent of settlements. In the other 20 percent of settlements, the court did not state the method it used or it used another method altogether.⁷¹ The pure lodestar method was used most often in consumer (29 percent) and debt collection (45 percent) cases. These numbers are fairly consistent with the Eisenberg-Miller data from 2003 to 2008. They found that the lodestar method was used in only 9.6 percent of settlements.⁷² Their number is no doubt lower than the 12 percent number found in my 2006-2007 data set because they excluded fee-shifting cases from their study.

C. Variation in Fees Awarded

Not only do district courts often have discretion to choose between the lodestar method and the percentage-of-the-settlement method, but each of these methods leaves district courts with a great deal of discretion in how the method is ultimately applied. The courts

⁶⁷Fed. R. Civ. P. 23(h).

⁶⁸The discretion to pick between these methods is most pronounced in settlements where the underlying claim was not found in a statute that would shift attorney fees to the defendant. See, e.g., In re Thirteen Appeals Arising out of San Juan DuPont Plaza Hotel Fire Litig., 56 F.3d 295, 307 (1st Cir. 1995) (permitting either percentage or lodestar method in common-fund cases); Goldberger v. Integrated Res. Inc., 209 F.3d 43, 50 (2d Cir. 2000) (same); Rawlings v. Prudential-Bache Props., Inc., 9 F.3d 513, 516 (6th Cir. 1993) (same). By contrast, courts typically used the lodestar approach in settlements arising from fee-shifting cases.

⁶⁹See Eisenberg & Miller, supra note 15, at 31.

⁷⁰Id. at 31-32.

⁷¹These numbers are based on the fee method described in the district court's order awarding fees, unless the order was silent, in which case the method, if any, described in class counsel's motion for fees (if it could be obtained) was used. If the court explicitly justified the fee award by reference to its percentage of the settlement, I counted it as the percentage method. If the court explicitly justified the award by reference to a lodestar calculation, I counted it as the lodestar method. If the court explicitly justified the award by reference to both, I counted it as the percentage method with a lodestar cross-check. If the court calculated neither a percentage nor the fee lodestar in its order, then I counted it as an "other" method.

⁷²See Eisenberg & Miller II, supra note 16, at 267.

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that use the percentage-of-the-settlement method usually rely on a multifactor test⁷³ and, like most multifactor tests, it can plausibly yield many results. It is true that in many of these cases, judges examine the fee percentages that other courts have awarded to guide their discretion.⁷⁴ In addition, the Ninth Circuit has adopted a presumption that 25 percent is the proper fee award percentage in class action cases.⁷⁵ Moreover, in securities cases, some courts presume that the proper fee award percentage is the one class counsel agreed to when it was hired by the large shareholder that is now usually selected as the lead plaintiff in such cases. ⁷⁶ Nonetheless, presumptions, of course, can be overcome and, as one court has put it, "[t]here is no hard and fast rule mandating a certain percentage . . . which may reasonably be awarded as a fee because the amount of any fee must be determined upon the facts of each case."77 The court added: "[i]ndividualization in the exercise of a discretionary power [for fee awards] will alone retain equity as a living system and save it from sterility."78 It is therefore not surprising that district courts awarded fees over a broad range when they used the percentage-of-the-settlement method. Figure 4 is a graph of the distribution of fee awards as a percentage of the settlement in the 444 cases where district courts used the percentage method with or without a lodestar cross-check and the fee percentages were ascertainable. These fee awards are exclusive of awards for expenses whenever the awards could be separated by examining either the district court's order or counsel's motion for fees and expenses (which was 96 percent of the time). The awards ranged from 3 percent of the settlement to 47 percent of the settlement. The average award was 25.4 percent and the median was 25 percent. Most fee awards were between 25 percent and 35 percent, with almost no awards more than 35 percent. The Eisenberg-Miller study through 2008 found a slightly lower mean (24 percent) but the same median (25 percent) among its federal court settlements.79

It should be noted that in 218 of these 444 settlements (49 percent), district courts said they considered the lodestar calculation as a factor in assessing the reasonableness of the fee percentages awarded. In 204 of these settlements, the lodestar multiplier resulting

⁷³The Eleventh Circuit, for example, has identified a nonexclusive list of 15 factors that district courts might consider. See Camden I Condo. Ass'n, Inc. v. Dunkle, 946 F.2d 768, 772 n.3, 775 (11th Cir. 1991). See also In re Tyco Int'l, Ltd. Multidistrict Litig., 535 F. Supp. 2d 249, 265 (D.N.H. 2007) (five factors); Goldberger v. Integrated Res. Inc., 209 F.3d 43, 50 (2d Cir. 2000) (six factors); Gunter v. Ridgewood Energy Corp., 223 F.3d 190, 195 n.1 (3d Cir. 2000) (seven factors); In re Royal Ahold N.V. Sec. & ERISA Litig., 461 F. Supp. 2d 383, 385 (D. Md. 2006) (13 factors); Brown v. Phillips Petroleum Co., 838 F.2d 451, 454 (10th Cir. 1988) (12 factors); In re Baan Co. Sec. Litig., 288 F. Supp. 2d 14, 17 (D.D.C. 2003) (seven factors).

⁷⁴See Eisenberg & Miller, supra note 15, at 32.

 $^{^{75}\}mathrm{See}$ Staton v. Boeing Co., 327 F.3d 938, 968 (9th Cir. 2003).

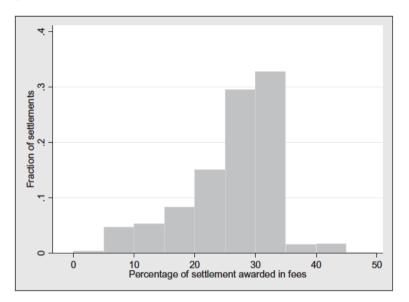
 $^{^{76}\}mathrm{See},\,\mathrm{e.g.},\,\mathrm{In}$ re Cendant Corp. Litig., 264 F.3d 201, 282 (3d Cir. 2001).

⁷⁷Camden I Condo. Ass'n, 946 F.2d at 774.

⁷⁸Camden I Condo. Ass'n, 946 F.2d at 774 (alterations in original and internal quotation marks omitted).

⁷⁹See Eisenberg & Miller II, supra note 16, at 259.

Figure 4: The distribution of 2006–2007 federal class action fee awards using the percentage-of-the-settlement method with or without lodestar cross-check.



Sources: Westlaw, PACER, district court clerks' offices.

from the fee award could be ascertained. The lodestar multiplier in these cases ranged from 0.07 to 10.3, with a mean of 1.65 and a median of 1.34. Although there is always the possibility that class counsel are optimistic with their timesheets when they submit them for lodestar consideration, these lodestar numbers—only one multiplier above 6.0, with the bulk of the range not much above 1.0—strike me as fairly parsimonious for the risk that goes into any piece of litigation and cast doubt on the notion that the percentage-of-the-settlement method results in windfalls to class counsel.⁸⁰

Table 8 shows the mean and median fee percentages awarded in each litigation subject area. The fee percentages did not appear to vary greatly across litigation subject areas, with most mean and median awards between 25 percent and 30 percent. As I report later in this section, however, after controlling for other variables, there were statistically significant differences in the fee percentages awarded in some subject areas compared to others. The mean and median percentages for securities cases were 24.7 percent and 25.0 percent, respectively; for all nonsecurities cases, the mean and median were 26.1 percent and 26.0 percent, respectively. The Eisenberg-Miller study through 2008 found mean awards ranging from 21–27 percent and medians from 19–25 percent, ⁸¹ a bit lower than the ranges in my

⁸⁰It should be emphasized, of course, that these 204 settlements may not be representative of the settlements where the percentage-of-the-settlement method was used without the lodestar cross-check.

⁸¹See Eisenberg & Miller II, supra note 16, at 262.

Table 8: Fee Awards in 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

	Percentage of Settle	ment Awarded as Fee	
Subject Matter	Mean	Median	
Securities	24.7	25.0	
(n = 233) Labor and employment $(n = 61)$	28.0	29.0	
Consumer $(n = 39)$	23.5	24.6	
Employee benefits $(n = 37)$	26.0	28.0	
Civil rights $(n = 20)$	29.0	30.3	
Debt collection $(n = 5)$	24.2	25.0	
Antitrust $(n = 23)$	25.4	25.0	
Commercial $(n = 7)$	23.3	25.0	
Other $(n = 19)$	24.9	26.0	
All $(N=444)$	25.7	25.0	

2006–2007 data set, which again, may be because they oversampled larger settlements (as I show below, district courts awarded smaller fee percentages in larger cases).

In light of the fact that, as I noted above, the distribution of class action settlements among the geographic circuits does not track their civil litigation dockets generally, it is interesting to ask whether one reason for the pattern in class action cases is that circuits oversubscribed with class actions award higher fee percentages. Although this question will be taken up with more sophistication in the regression analysis below, it is worth describing here the mean and median fee percentages in each of the circuits. Those data are presented in Table 9. Contrary to the hypothesis set forth in Section III, two of the circuits most oversubscribed with class actions, the Second and the Ninth, were the only circuits in which the mean fee awards were *under* 25 percent. As I explain below, these differences are statistically significant and remain so after controlling for other variables.

The lodestar method likewise permits district courts to exercise a great deal of leeway through the application of the discretionary multiplier. Figure 5 shows the distribution of lodestar multipliers in the 71 settlements in which district courts used the lodestar method and the multiplier could be ascertained. The average multiplier was 0.98 and the median was 0.92, which suggest that courts were not terribly prone to exercise their discretion to deviate from the amount of money encompassed in the lodestar calculation. These 71

Table 9: Fee Awards in 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

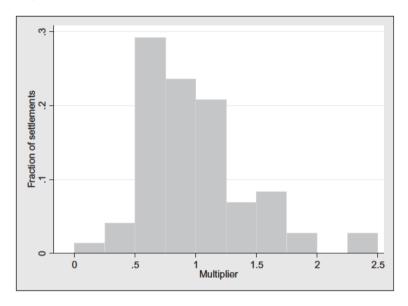
	Percentage of Settlement Awarded as Fe		
Circuit	Mean	Median	
First	27.0	25.0	
(n = 27)			
Second	23.8	24.5	
(n = 72)			
Third	25.4	29.3	
(n = 50)			
Fourth	25.2	28.0	
(n = 19)			
Fifth	26.4	29.0	
(n = 27)			
Sixth	26.1	28.0	
(n = 25)			
Seventh	27.4	29.0	
(n = 39)			
Eighth	26.1	30.0	
(n = 15)			
Ninth	23.9	25.0	
(n = 111)			
Tenth	25.3	25.5	
(n = 18)			
Eleventh	28.1	30.0	
(n = 35)			
DC	26.9	26.0	
(n = 6)			

settlements were heavily concentrated within the consumer (median multiplier 1.13) and debt collection (0.66) subject areas. If cases in which district courts used the percentage-of-the-settlement method with a lodestar cross-check are combined with the lodestar cases, the average and median multipliers (in the 263 cases where the multipliers were ascertainable) were 1.45 and 1.19, respectively. Again—putting to one side the possibility that class counsel are optimistic with their timesheets—these multipliers appear fairly modest in light of the risk involved in any piece of litigation.

D. Factors Influencing Percentage Awards

Whether district courts are exercising their discretion over fee awards wisely is an important public policy question given the amount of money at stake in class action settlements. As shown above, district court judges awarded class action lawyers nearly \$5 billion in fees and expenses in 2006–2007. Based on the comparison to the tort system set forth in Section III, it is not difficult to surmise that in the 350 or so settlements every year, district court judges

Figure 5: The distribution of lodestar multipliers in 2006–2007 federal class action fee awards using the lodestar method.

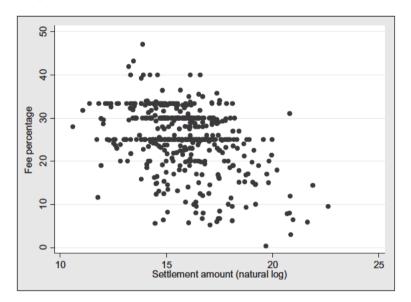


are awarding a significant portion of all the annual compensation received by contingencyfee lawyers in the United States. Moreover, contingency fees are arguably the engine that drives much of the noncriminal regulation in the United States; unlike many other nations, we regulate largely through the ex post, decentralized device of litigation. Receive To the extent district courts could have exercised their discretion to award billions more or billions less to class action lawyers, district courts have been delegated a great deal of leeway over a big chunk of our regulatory horsepower. It is therefore worth examining how district courts exercise their discretion over fees. This examination is particularly important in cases where district courts use the percentage-of-the-settlement method to award fees: not only do such cases comprise the vast majority of settlements, but they comprise the vast majority of the money awarded as fees. As such, the analysis that follows will be confined to the 444 settlements where the district courts used the percentage-of-the-settlement method.

As I noted, prior empirical studies have shown that fee percentages are strongly and inversely related to the size of the settlement both in securities fraud and other cases. As shown in Figure 6, the 2006–2007 data are consistent with prior studies. Regression analysis, set forth in more detail below, confirms that after controlling for other variables, fee percentage is strongly and inversely associated with settlement size among all cases, among securities cases, and among all nonsecurities cases.

⁸²See, e.g., Samuel Issacharoff, Regulating after the Fact, 56 DePaul L. Rev. 375, 377 (2007).

Figure 6: Fee awards as a function of settlement size in 2006–2007 class action cases using the percentage-of-the-settlement method with or without lodestar cross-check.



Sources: Westlaw, PACER, district court clerks' offices.

As noted above, courts often look to fee percentages in other cases as one factor they consider in deciding what percentage to award in a settlement at hand. In light of this practice, and in light of the fact that the size of the settlement has such a strong relationship to fee percentages, scholars have tried to help guide the practice by reporting the distribution of fee percentages across different settlement sizes. In Table 10, I follow the Eisenberg-Miller studies and attempt to contribute to this guidance by setting forth the mean and median fee percentages, as well as the standard deviation, for each decile of the 2006–2007 settlements in which courts used the percentage-of-the-settlement method to award fees. The mean percentages ranged from over 28 percent in the first decile to less than 19 percent in the last decile.

It should be noted that the last decile in Table 10 covers an especially wide range of settlements, those from \$72.5 million to the Enron settlement of \$6.6 billion. To give more meaningful data to courts that must award fees in the largest settlements, Table 11 shows the last decile broken into additional cut points. When both Tables 10 and 11 are examined together, it appears that fee percentages tended to drift lower at a fairly slow pace until a settlement size of \$100 million was reached, at which point the fee percentages plunged well below 20 percent, and by the time \$500 million was reached, they plunged well below 15 percent, with most awards at that level under even 10 percent.

⁸³See Eisenberg & Miller II, supra note 16, at 265.

Table 10: Mean, Median, and Standard Deviation of Fee Awards by Settlement Size in 2006–2007 Federal Class Action Settlements Using the Percentageof-the-Settlement Method With or Without Lodestar Cross-Check

Settlement Size (in Millions)	Mean	Median	SD
[\$0 to \$0.75]	28.8%	29.6%	6.1%
(n = 45) (\$0.75 to \$1.75]	28.7%	30.0%	6.2%
(n = 44) (\$1.75 to \$2.85]	26.5%	29.3%	7.9%
(n = 45) (\$2.85 to \$4.45] (n = 45)	26.0%	27.5%	6.3%
(n-43) (\$4.45 to \$7.0] (n=44)	27.4%	29.7%	5.1%
(\$7.0 to \$10.0] (n = 43)	26.4%	28.0%	6.6%
(\$10.0 to \$15.2] (n = 45)	24.8%	25.0%	6.4%
(\$15.2 to \$30.0] (n = 46)	24.4%	25.0%	7.5%
(\$30.0 to \$72.5] $(n = 42)$	22.3%	24.9%	8.4%
(\$72.5 to \$6,600] (n = 45)	18.4%	19.0%	7.9%

Table 11: Mean, Median, and Standard Deviation of Fee Awards of the Largest 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

Settlement Size (in Millions)	Mean	Median	SD
(\$72.5 to \$100]	23.7%	24.3%	5.3%
(n = 12)			
(\$100 to \$250]	17.9%	16.9%	5.2%
(n = 14)			
(\$250 to \$500]	17.8%	19.5%	7.9%
(n = 8)			
(\$500 to \$1,000]	12.9%	12.9%	7.2%
(n = 2)			
(\$1,000 to \$6,600]	13.7%	9.5%	11%
(n = 9)			

Sources: Westlaw, PACER, district court clerks' offices.

Prior empirical studies have not examined whether fee awards are associated with the political affiliation of the district court judges making the awards. This is surprising because realist theories of judicial behavior would predict that political affiliation would influence fee decisions. 84 It is true that as a general matter, political affiliation may influence district court judges to a lesser degree than it does appellate judges (who have been the focus of most of the prior empirical studies of realist theories): district court judges decide more routine cases and are subject to greater oversight on appeal than appellate judges. On the other hand, class action settlements are a bit different in these regards than many other decisions made by district court judges. To begin with, class action settlements are almost never appealed, and when they are, the appeals are usually settled before the appellate court hears the case.⁸⁵ Thus, district courts have much less reason to worry about the constraint of appellate review in fashioning fee awards. Moreover, one would think the potential for political affiliation to influence judicial decision making is greatest when legal sources lead to indeterminate outcomes and when judicial decisions touch on matters that are salient in national politics. (The more salient a matter is, the more likely presidents will select judges with views on the matter and the more likely those views will diverge between Republicans and Democrats.) Fee award decisions would seem to satisfy both these criteria. The law of fee awards, as explained above, is highly discretionary, and fee award decisions are wrapped up in highly salient political issues such as tort reform and the relative power of plaintiffs' lawyers and corporations. I would expect to find that judges appointed by Democratic presidents awarded higher fees in the 2006-2007 settlements than did judges appointed by Republican presidents.

The data, however, do not appear to bear this out. Of the 444 fee awards using the percentage-of-the-settlement approach, 52 percent were approved by Republican appointees, 45 percent were approved by Democratic appointees, and 4 percent were approved by non-Article III judges (usually magistrate judges). The mean fee percentage approved by Republican appointees (25.6 percent) was slightly *greater* than the mean approved by Democratic appointees (24.9 percent). The medians (25 percent) were the same.

To examine whether the realist hypothesis fared better after controlling for other variables, I performed regression analysis of the fee percentage data for the 427 settlements approved by Article III judges. I used ordinary least squares regression with the dependent variable the percentage of the settlement that was awarded in fees. ⁸⁶ The independent

⁸⁴See generally C.K. Rowland & Robert A. Carp, Politics and Judgment in Federal District Courts (1996). See also Max M. Schanzenbach & Emerson H. Tiller, Reviewing the Sentencing Guidelines: Judicial Politics, Empirical Evidence, and Reform, 75 U. Chi. L. Rev. 715, 724–25 (2008).

⁸⁵See Brian T. Fitzpatrick, The End of Objector Blackmail? 62 Vand. L. Rev. 1623, 1640, 1634–38 (2009) (finding that less than 10 percent of class action settlements approved by federal courts in 2006 were appealed by class members).

⁸⁶Professors Eisenberg and Miller used a square root transformation of the fee percentages in some of their regressions. I ran all the regressions using this transformation as well and it did not appreciably change the results. I also ran the regressions using a natural log transformation of fee percentage and with the dependent variable natural log of the fee amount (as opposed to the fee percentage). None of these models changed the results

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variables were the natural log of the amount of the settlement, the natural log of the age of the case (in days), indicator variables for whether the class was certified as a settlement class, for litigation subject areas, and for circuits, as well as indicator variables for whether the judge was appointed by a Republican or Democratic president and for the judge's race and gender.⁸⁷

The results for five regressions are in Table 12. In the first regression (Column 1), only the settlement amount, case age, and judge's political affiliation, gender, and race were included as independent variables. In the second regression (Column 2), all the independent variables were included. In the third regression (Column 3), only securities cases were analyzed, and in the fourth regression (Column 4), only nonsecurities cases were analyzed.

In none of these regressions was the political affiliation of the district court judge associated with fee percentage in a statistically significant manner. Ref. One possible explanation for the lack of evidence for the realist hypothesis is that district court judges elevate other preferences above their political and ideological ones. For example, district courts of both political stripes may succumb to docket-clearing pressures and largely rubber stamp whatever fee is requested by class counsel; after all, these requests are rarely challenged by defendants. Moreover, if judges award class counsel whatever they request, class counsel will not appeal and, given that, as noted above, class members rarely appeal settlements (and when they do, often settle them before the appeal is heard), by judges can thereby virtually guarantee there will be no appellate review of their settlement decisions. Indeed, scholars have found that in the vast majority of cases, the fees ultimately awarded by federal judges are little different than those sought by class counsel.

Another explanation for the lack of evidence for the realist hypothesis is that my data set includes both unpublished as well as published decisions. It is thought that realist theories of judicial behavior lose force in unpublished judicial decisions. This is the case because the kinds of questions for which realist theories would predict that judges have the most room to let their ideologies run are questions for which the law is ambiguous; it is

appreciably. The regressions were also run with and without the 2006 Enron settlement because it was such an outlier (\$6.6 billion); the case did not change the regression results appreciably. For every regression, the data and residuals were inspected to confirm the standard assumptions of linearity, homoscedasticity, and the normal distribution of errors.

⁸⁷Prior studies of judicial behavior have found that the race and sex of the judge can be associated with his or her decisions. See, e.g., Adam B. Cox & Thomas J. Miles, Judging the Voting Rights Act, 108 Colum. L. Rev. 1 (2008); Donald R. Songer et al., A Reappraisal of Diversification in the Federal Courts: Gender Effects in the Courts of Appeals, 56 J. Pol. 425 (1994).

⁸⁸Although these coefficients are not reported in Table 8, the gender of the district court judge was never statistically significant. The race of the judge was only occasionally significant.

⁸⁹See Fitzpatrick, supra note 85, at 1640.

⁹⁰See Eisenberg & Miller II, supra note 16, at 270 (finding that state and federal judges awarded the fees requested by class counsel in 72.5 percent of settlements); Eisenberg, Miller & Perino, supra note 9, at 22 ("judges take a light touch when it comes to reviewing fee requests").

Table 12: Regression of Fee Percentages in 2006–2007 Settlements Using Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

Settlement amount (natural log) -1.77		Regression Coefficients (and Robust t Statistics)				
C-5.43 *** (-8.52 *** (-7.16)*** (-4.00)*** (-8.67)***	Independent Variable	1	2	3	4	5
Age of case (natural log days) 1.66 1.99 1.13 1.72 2.00 Judge's political affiliation (1 = Democrat) -0.630 -0.345 0.657 -1.43 0.232 Settlement class 0.150 0.873 -1.62 0.124 Settlement class (0.19) (0.84) (-1.00) (0.34) Ist Circuit 3.30 4.41 0.031 0.579 2d Circuit 0.513 -0.813 2.93 -0.014 2d Circuit 0.513 -0.813 2.93 -0.019 (0.51) (0.51) (0.51) (0.51) (0.51) (0.51) (0.51) (0.51) (0.51) (0.51) (0.51) (0.57) (0.57) (0.57) (0.15) (0.57) (0.11) (0.51)	Settlement amount (natural log)					
(2.31)** (2.71)** (1.21) (1.47) (2.69)** Judge's political affiliation (1 = Democrat)	A C (11 1)					
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	Antitrust case		, ,			,
	initia ast case		(2.11)**		(0.47)	(1.98)**

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Table 12 Continued

	R	Regression Coefficients (and Robust t Statistics)				
Independent Variable		2	3	4	5	
Commercial case		-0.028		-2.65	0.178	
		(-0.01)		(-0.73)	(0.05)	
Other case		-0.340		-3.73	-0.221	
		(-0.17)		(-1.65)	(-0.11)	
Constant	42.1	37.2	43.0	38.2	40.1	
	(7.29)**	(6.08)**	(6.72)**	(4.14)**	(7.62)**	
N	427	427	232	195	427	
R^2	.20	.26	.37	.26	.26	
Root MSE	6.59	6.50	5.63	7.24	6.48	

Note: **significant at the 5 percent level; *significant at the 10 percent level. Standard errors in Column 1 were clustered by circuit. Indicator variables for race and gender were included in each regression but not reported. Sources: Westlaw, PACER, district court clerks' offices, Federal Judicial Center.

thought that these kinds of questions are more often answered in published opinions. ⁹¹ Indeed, most of the studies finding an association between ideological beliefs and case outcomes were based on data sets that included only published opinions. ⁹² On the other hand, there is a small but growing number of studies that examine unpublished opinions as well, and some of these studies have shown that ideological effects persisted. ⁹³ Nonetheless, in light of the discretion that judges exercise with respect to fee award decisions, it hard to characterize *any* decision in this area as "unambiguous." Thus, even when unpublished, I would have expected the fee award decisions to exhibit an association with ideological beliefs. Thus, I am more persuaded by the explanation suggesting that judges are more concerned with clearing their dockets or insulating their decisions from appeal in these cases than with furthering their ideological beliefs.

In all the regressions, the size of the settlement was strongly and inversely associated with fee percentages. Whether the case was certified as a settlement class was not associated

⁹¹See, e.g., Ahmed E. Taha, Data and Selection Bias: A Case Study, 75 UMKC L. Rev. 171, 179 (2006).

⁹²Id. at 178-79.

⁹⁸See, e.g., David S. Law, Strategic Judicial Lawmaking: Ideology, Publication, and Asylum Law in the Ninth Circuit, 73 U. Cin. L. Rev. 817, 843 (2005); Deborah Jones Merritt & James J. Brudney, Stalking Secret Law: What Predicts Publication in the United States Courts of Appeals, 54 Vand. L. Rev. 71, 109 (2001); Donald R. Songer, Criteria for Publication of Opinions in the U.S. Courts of Appeals: Formal Rules Versus Empirical Reality, 73 Judicature 307, 312 (1990). At the trial court level, however, the studies of civil cases have found no ideological effects. See Laura Beth Nielsen, Robert L. Nelson & Ryon Lancaster, Individual Justice or Collective Legal Mobilization? Employment Discrimination Litigation in the Post Civil Rights United States, 7 J. Empirical Legal Stud. 175, 192–93 (2010); Denise M. Keele et al., An Analysis of Ideological Effects in Published Versus Unpublished Judicial Opinions, 6 J. Empirical Legal Stud. 213, 230 (2009); Orley Ashenfelter, Theodore Eisenberg & Stewart J. Schwab, Politics and the Judiciary: The Influence of Judicial Background on Case Outcomes, 24 J. Legal Stud. 257, 276–77 (1995). With respect to criminal cases, there is at least one study at the trial court level that has found ideological effects. See Schanzenbach & Tiller, supra note 81, at 734.

with fee percentages in any of the regressions. The age of the case at settlement was associated with fee percentages in the first two regressions, and when the settlement class variable was removed in regressions 3 and 4, the age variable became positively associated with fee percentages in nonsecurities cases but remained insignificant in securities cases. Professors Eisenberg and Miller likewise found that the age of the case at settlement was positively associated with fee percentages in their 1993–2002 data set, 94 and that settlement classes were not associated with fee percentages in their 2003–2008 data set. 95

Although the structure of these regressions did not permit extensive comparisons of fee awards across different litigation subject areas, fee percentages appeared to vary somewhat depending on the type of case that settled. Securities cases were used as the baseline litigation subject area in the second and fifth regressions, permitting a comparison of fee awards in each nonsecurities area with the awards in securities cases. These regressions show that awards in a few areas, including labor/employment and antitrust, were more lucrative than those in securities cases. In the fourth regression, which included only nonsecurities cases, labor and employment cases were used as the baseline litigation subject area, permitting comparison between fee percentages in that area and the other nonsecurities areas. This regression shows that fee percentages in several areas, including consumer and employee benefits cases, were lower than the percentages in labor and employment cases.

In the fifth regression (Column 5 of Table 12), I attempted to discern whether the circuits identified in Section III as those with the most overrepresented (the First, Second, Seventh, and Ninth) and underrepresented (the Fifth and Eighth) class action dockets awarded attorney fees differently than the other circuits. That is, perhaps district court judges in the First, Second, Seventh, and Ninth Circuits award greater percentages of class action settlements as fees than do the other circuits, whereas district court judges in the Fifth and Eighth Circuits award smaller percentages. To test this hypothesis, in the fifth regression, I included indicator variables only for the six circuits with unusual dockets to measure their fee awards against the other six circuits combined. The regression showed statistically significant association with fee percentages for only two of the six unusual circuits: the Second and Ninth Circuits. In both cases, however, the direction of the association (i.e., the Second and Ninth Circuits awarded *smaller* fees than the baseline circuits) was opposite the hypothesized direction.⁹⁶

⁹⁴See Eisenberg & Miller, supra note 15, at 61.

 $^{^{95}\}mathrm{See}$ Eisenberg & Miller II, supra note 16, at 266.

⁹⁶This relationship persisted when the regressions were rerun among the securities and nonsecurities cases separately. I do not report these results, but, even though the First, Second, and Ninth Circuits were oversubscribed with securities class action settlements and the Fifth, Sixth, and Eighth were undersubscribed, there was no association between fee percentages and any of these unusual circuits except, again, the inverse association with the Second and Ninth Circuits. In nonsecurities cases, even though the Seventh and Ninth Circuits were oversubscribed and the Fifth and the Eighth undersubscribed, there was no association between fee percentages and any of these unusual circuits except again for the inverse association with the Ninth Circuit.

The lack of the expected association with the unusual circuits might be explained by the fact that class action lawyers forum shop along dimensions other than their potential fee awards; they might, for example, put more emphasis on favorable class-certification law because there can be no fee award if the class is not certified. As noted above, it might also be the case that class action lawyers are unable to engage in forum shopping at all because defendants are able to transfer venue to the district in which they are headquartered or another district with a significant connection to the litigation.

It is unclear why the Second and Ninth Circuits were associated with lower fee awards despite their heavy class action dockets. Indeed, it should be noted that the Ninth Circuit was the baseline circuit in the second, third, and fourth regressions and, in all these regressions, district courts in the Ninth Circuit awarded smaller fees than courts in many of the other circuits. The lower fees in the Ninth Circuit may be attributable to the fact that it has adopted a presumption that the proper fee to be awarded in a class action settlement is 25 percent of the settlement.⁹⁷ This presumption may make it more difficult for district court judges to award larger fee percentages. The lower awards in the Second Circuit are more difficult to explain, but it should be noted that the difference between the Second Circuit and the baseline circuits went away when the fifth regression was rerun with only nonsecurities cases.⁹⁸ This suggests that the awards in the Second Circuit may be lower *only* in securities cases. In any event, it should be noted that the lower fee awards from the Second and Ninth Circuits contrast with the findings in the Eisenberg-Miller studies, which found no intercircuit differences in fee awards in common-fund cases in their data through 2008.⁹⁹

V. Conclusion

This article has attempted to fill some of the gaps in our knowledge about class action litigation by reporting the results of an empirical study that attempted to collect all class action settlements approved by federal judges in 2006 and 2007. District court judges approved 688 class action settlements over this two-year period, involving more than \$33 billion. Of this \$33 billion, nearly \$5 billion was awarded to class action lawyers, or about 15 percent of the total. District courts typically awarded fees using the highly discretionary percentage-of-the-settlement method, and fee awards varied over a wide range under this method, with a mean and median around 25 percent. Fee awards using this method were strongly and inversely associated with the size of the settlement. Fee percentages were not associated with whether the class action was certified as a settlement class or with the

⁹⁷See note 75 supra. It should be noted that none of the results from the previous regressions were affected when the Ninth Circuit settlements were excluded from the data.

⁹⁸The Ninth Circuit's differences persisted.

⁹⁹See Eisenberg & Miller II, supra note 16, at 260.

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political affiliation of the judge who made the award. Finally, there appeared to be some variation in fee percentages depending on subject matter of the litigation and the geographic circuit in which the district court was located. Fee percentages in securities cases were lower than the percentages in some but not all of the other litigation areas, and district courts in the Ninth Circuit and in the Second Circuit (in securities cases) awarded lower fee percentages than district courts in several other circuits. The lower awards in the Ninth Circuit may be attributable to the fact that it is the only circuit that has adopted a presumptive fee percentage of 25 percent.

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

)	
IN RE: NATIONAL FOOTBALL LEAGUE)	2:12-md-02323-AB
PLAYERS' CONCUSSION INJURY LITIG.,)	
)	

OPPOSITION TO CO-LEAD CLASS COUNSEL'S PETITION FOR AN AWARD OF ATTORNEYS' FEES AND ADOPTION OF A SET-ASIDE OF EACH MONETARY AWARD, AND OPPOSITION TO LAMKENMOLO'S FEE PETITION

Pursuant to FRCP 23(h)(2), Class member Cleo Miller hereby reiterates his objection to the request for attorney's fees contained in his October 14, 2014 Objection to the Settlement (Document 6213), and files this further opposition to the Fee Petition filed by Co-Lead Class Counsel on February 13, 2017.

I. Class Counsel Has Failed To Provide Any Evidence of the Value of the Settlement.

Class Counsel express a preference for having their fee petition evaluated under the constructive common fund method, but they have failed to provide this Court with any evidence of what the current value of the settlement actually is, despite the fact that such information has been available for the past two years. As stated at page 31 of Class Counsel's Memorandum, Subclass 2 consists of retired NFL players who were diagnosed with a Qualifying Diagnosis prior to July 7, 2014. Those claims, and any subsequently approved Death with CTE claims, represent the current value of the settlement. As stated in his 2014 Objection, Mr. Miller has no objection to Class Counsel receiving a fee award of 15% of any amounts actually paid to qualifying Class Members. At the present time, that amount is limited to the amounts currently owed to Subclass 2 class members.

Class Counsel's projection of a \$950 million ultimate value of the Monetary Award Fund is based on unrealistic assumptions not borne out by actual class member behavior and experience. Class Counsel assumed that 90% of all class members who filed individual suits would eventually obtain a Qualifying Diagnosis. That is not justified based upon the vast majority of class members who filed individual claims, most of whom were not suffering from any Qualifying Diagnosis at the time they filed suit. Most of those class members suspected that they were suffering from symptoms of CTE, a new disease that was not well-understood and that includes symptoms shared by other diseases. The expectation of the majority of these players was that a settlement would cover the syndrome referred to as CTE, and that they would be eligible for compensatory damages. When that did not occur, the vast majority of players who filed suit were left out of any recovery. The filing of an individual lawsuit had more to do with being recruited by one of the Plaintiffs' firms than it did with actually manifesting symptoms of one of the Qualifying Diagnoses. Furthermore, many of the lawsuits merely demanded medical monitoring, rather than compensation for a diagnosed disease.

Class Counsel's assumption that 50% of all players who did not file suit will ultimately recover is on even shakier ground. The NFL does not agree with this incredibly pessimistic forecast. At a minimum, any valuation of the settlement must await the registration deadline, since at that time the potential universe of claimants may be reduced by 50% or more. If, for example, only 10,000 of the potential 20,000 class members register by August 2017, the maximum potential payout will fall to \$425 million, even based upon Class Counsel's rosy assumptions. The NFL projected that

¹ Class Counsel indicate in their Memorandum that only 30% of the class, or 6100 class members, have registered to date. Because there is no logical reason why any class member who received the

fewer than 3500 class members will end up having Qualifying Diagnoses, with the vast majority of those having neurocognitive impairment, the lowest compensated Qualifying Diagnosis.

There is no basis for making any fee award to Class Counsel at the current time, in the absence of further information about the amount of settlement funds that are due to be paid to class members who have already obtained Qualifying Diagnoses. In any event, the Court should wait until at least August 7, 2017 before awarding any fees, in order to determine whether the settlement has proved attractive to a sufficient number of retired NFL players to justify Class Counsel's enormous fee request. A low registration percentage would undermine the wildly optimistic projections of potential value currently being promoted by Class Counsel, and indicate that what Class Counsel accomplished is unattractive to a substantial number of their clients, something that must be taken into account in awarding fees.

II. Class Counsel's Lodestar is Grossly Inflated, and the Requested Multiplier Is Excessive.

Objector Miller agrees with Class Counsel that this Court should award a fee based upon the value of benefits actually conferred upon the Class under the constructive common fund method, and use the lodestar only as a cross-check. However, some observations about Class Counsel's aggressive lodestar are necessary in order to demonstrate the overreach of their current fee request, and to show how excessive the \$112.5 million fee fund was at the time it was negotiated.

supplemental notice would wait to register, and the likelihood that a class member will forget to do so increases over time, it is likely given the current numbers that the final number of registrants will be less than 10,000.

Based on the raw numbers, Class Counsel's average hourly rate for all 51,000 of their claimed hours is \$784/hour, a grossly excessive figure. This indicates that most of the work in this case was accomplished by high-cost partners rather than associates, and that Co-Lead Class Counsel failed to staff this case efficiently and economically. This is one of the highest average hourly rates ever seen in a class action, and this Court should carefully review Class Counsel's detailed time records to ensure that the case was staffed efficiently, without excessive billing by partners and senior associates for work that could have been accomplished by paralegals.

A more reasonable *average* hourly rate for this case would be \$600, which would result in a lodestar of approximately \$30 million. This means that the requested fee of \$107 million represents a multiplier of 3.56, not 2.56, which is a clearly excessive multiplier for this case. First, Class Counsel negotiated their disproportionate fee back in 2013 at the time of the first settlement, when their collective lodestar was just \$15 million or less. At the time it was negotiated, the \$112.5 million fee likely represented a multiplier of 7 or more.

Second, all risk of non-payment of fees ceased as of the date of the first settlement. All of the risk of non-payment cited by Class Counsel in their Memorandum relates to defenses the NFL could have asserted while this case was being litigated. After August 29, 2013, when the first settlement was announced, any and all risk for Class Counsel disappeared. Not only were they assured of being paid for their fees up to that point, they had negotiated a preferential payment to themselves of an amount that was 700% or more of their existing lodestars, against which they could continue to bill at astronomical partner rates, with no risk, in an effort to consumer the entire pot.

To the extent that this Court applies a multiplier to Class Counsel's lodestar, it should apply that multiplier only to fees that were incurred prior to August 29, 2013, during which a risk of non-payment attached. All fees incurred after that date, while clearly compensable to the extent necessary to achieve final approval, were not fees that were at any risk of non-compensation, and therefore deserve no multiplier enhancement. It was during this period that the Co-Lead Counsel firms were free to run up their lodestars by top-heavy and redundant billing in an effort to justify their excessive fee request, and therefore this time should be subject to heightened scrutiny.

III. All Firms Receiving a Portion of the Common Benefit Attorney's Fees Should Have Their Individual Fee Contracts Voided.

Seeger Weiss has appropriately waived any fees and expenses from class members whom the firm represents on an individual basis, as it should, since the requested common benefit fees already represent a 3.5 multiplier on their reasonable lodestar, which would more than cover any additional work that remains to be done shepherding class members' claims through the MAF.² However, disappointingly, other firms are not following suit, and are asserting their right to take up to 40% of their clients' awards, even though any common benefit fee award will make them more than whole for any fees they have incurred on their individual clients' behalf.

Cleo Miller incorporates and endorses the previously filed Estate of Kevin

Turner's Motion to Resolve Attorney Fee Dispute (Document 7029), which makes many
cogent points about the fundamental unfairness of taking the highest fees from the awards

² Class Counsel cannot defend its claims to up to 40% of individual class member awards based upon the work they will have to do filling out the claims forms. That work is almost entirely paralegal work, and can be accomplished for a few thousand dollars of clerical worker time. After all, Class Counsel has represented that the claims process was designed to be simple and straightforward enough that the class members can submit claims without the need to hire a lawyer. Any assistance in completing the claims process that law firms provide cannot possibly serve as a justification for taking an additional 40% of the awards.

of those class members who stepped forward early on, and who did the most to help achieve the settlement for all of the other class members, while players who did not file lawsuits, but who qualify for a settlement payment in the future, will receive up to 40% more than the CTE pioneers. Taking 40% of individual players' awards, after having been made more than whole by the common benefit fee awards, is unconscionable.

While a 40% fee agreement may be reasonable in a case that must be tried, and then defended on appeal in the event of a plaintiff's verdict, the same cannot be said in a case like this one that almost immediately became an MDL, and that was subsequently settled a little more than a year later. The Estate of Kevin Turner's Motion makes the salient point that almost all of the work performed in his case was common benefit work, since his case was only on file for a few days before the MDL was created and this case went into settlement mode. None of the individual cases ever came close to being tried, and most of the cases never even had to brief a motion to dismiss before this MDL was created. Kevin Turner retained Podhurst just two days before that firm filed a consolidated complaint on behalf of 99 players, and just 11 days later the case was consolidated in an MDL. Any work related solely to individual cases was therefore necessarily *de minimus*.

IV. Objector Miller Opposes the Requested 5% Holdback on All Awards.

Mr. Miller continues to oppose Class Counsel's request for a 5% holdback on all future monetary awards to compensate Co-Lead Counsel for common benefit work going forward. Any multiplier or enhancement to lodestar that Class Counsel may receive as part of this Court's fee award is already sufficient to compensate Class Counsel for any work going forward. Indeed, it must have been the need to provide for future common

benefit work that led Class Counsel to demand a \$112.5 million fee payment in connection with the settlement in 2013, since at that time the amount of the fee fund was as much as 10 times their collective lodestar. While this multiplier has come down a bit over the past four years as Class Counsel has billed more time in connection with the settlement approval process, the \$112.5 million fee fund is still more than three times Class Counsel's reasonable lodestar. Therefore, there are more than sufficient funds in the fee fund to cover all reasonable fees that Class Counsel may incur, whether for common benefit work, or for clerical work on their individual clients' claims, for the next 65 years. Class Counsel should receive nothing more in the way of a holdback from class members' monetary awards.

V. Objector Miller Opposes Any Fee Award to MoloLamken Until the Amount Of Benefits Directly Attributable to The Objections May Be Quantified.

For the same reason that Mr. Miller opposes Class Counsel's Fee Petition at this time, he also opposes MoloLamken's premature request for \$20 million in fees based on purely speculative projections of maximum possible benefits. For example, the centerpiece of their claimed improvements to the settlement – the extension of the deadline for Death with CTE – is valued at \$44.8 million. That figure, however, assumes that 96% of the 111 players who died between the original deadline and the amended one will file a claim, and all of those will be able to establish a Qualifying Diagnosis of Death with CTE. Any quantification of the benefits produced by the amendments to the settlement must await the actual filing, evaluation and payment of claims. Furthermore, MoloLamken cannot take sole credit for the extension of the Death with CTE deadline, since most of the other objector/appellants were focused on this defect in the settlement

above all others. The Cleo Miller Appellants indeed sought to extend the deadline for Death with CTE indefinitely, and pursued that goal further than MoloLamken did.³

Any allocation of credit for the extended Death with CTE deadline should await the time when the claims of the 111 players who were made eligible by this extension have been filed and adjudicated, and a quantifiable dollar figure can be attached to this benefit. At that time, credit for this improvement to the settlement can be allocated among the objectors who advocated for it. Until that time, any award of fees to objectors is premature.

The other categories of benefits claimed my MoloLamken are likewise premature. For example, uncapping the BAP fund will not constitute a benefit to the class unless sufficient class members register for benefits and enter the BAP program. The \$75 million already allocated to BAP is sufficient to fund a BAP examination for all 16,962 living players. If only 10,000 players register for the settlement and/or sign up for BAP, for instance, the uncapping of the BAP fund will have conferred no value on the class. Therefore, any evaluation of the benefit conferred by this change will have to await the August 7, 2017 registration deadline, at a minimum, and most likely the conclusion of the two year BAP window.

The same objections apply to MoloLamken's other claimed benefit categories, such as NFL Europe and financial hardship waiver. The actual value of these modifications will depend on the number of claims filed by those class members who are eligible for them, and the entire universe of eligible beneficiaries will be substantially culled by the time of the registration deadline. It is highly unlikely that many players

³ Counsel for Cleo Miller intend to file a petition for attorney's fees once the value of the benefit that they conferred upon the Class may be quantified. Currently, any such fee request would be premature.

who are only eligible for BAP will bother registering for the settlement or signing up for BAP. In any event, the August 7, 2017 registration deadline will soon provide a partial confirmation or refutation of that prediction, and the Court should await that number before awarding fees based on speculative projections assuming 100% participation rates.

VI. The Court Should Stage Class Counsel's Fee Award, Rather Than Awarding The Entire Amount at this Time.

Rather than making a final common benefit fee award at this time, this Court should make fee awards in stages as claims are paid over the next 65 years, just as the court did in *In re: The Prudential Ins. Co. of America Sales Prac. Litig.*, 962 F. Supp. 572 D.N.J. 1997). There, as here, the settlement provided for an uncapped claims process, and a separate payment of fees of up to \$90 million.

The Court is mindful of the Third Circuit requirement that this Court must arrive at a settlement value as a predicate to the award of attorney's fees under the percentage-of-recovery method... Here, however, the Court is faced with a settlement agreement that provides for a "future fund" that is uncapped and the total true value of which is dependent upon the number of class members that come forward to have their claims remediated under the ADR program.

Id. at 583 (citations omitted).

While class counsel in *Prudential* submitted an expert report, the court found that it was insufficiently reliable as a forecast of future contingent value to serve as the basis for a fee award under Third Circuit jurisprudence. *Id.* Therefore, the court elected to stage the award of attorney's fees, "through a modified application of the percentage of recovery approach that establishes a percentage of recovery on the known value of the settlement – Prudential's guaranteed minimum payout of \$410 million...-- and a separate percentage of recovery with respect to the future, additional value of benefits to be paid to class members who come forward under the Settlement Agreement..." *Id.* at 584.

In *Prudential*, the only future variable was the number of class members who would elect ADR, since all class members were eligible. Here, there are the additional contingencies of registration and establishing a Qualifying Diagnosis. Therefore, for purposes of an immediate, first stage, fee award, the Court must determine the current "known value of the settlement" – an amount that has never been disclosed or placed in the record. Certainly, the \$10 million education fund and \$75 million guaranteed BAP fund can be counted as part of the known value of the settlement for purposes of the first stage fee award. Class Counsel and the NFL have a duty to establish through evidence what additional claims are due to paid at this time to class members who have already established Qualifying Diagnoses. Once this amount has been established, the Court may award a reasonable percentage fee award based on this figure.

Class Counsel is entitled to a fee equal to 15% of all claims that have been approved and paid to date. While the claims process has not formally begun yet, presumably there are class members who have received Qualifying Diagnoses, and whose claims can be quantified with a high degree of confidence, such as those of Kevin Turner and the players who died with CTE prior to April 2015. Class Counsel is entitled to a fee award in the amount of 15% of the total of those claims, once Class Counsel has filed information on the amount of settlement claims that will be paid as soon as the MAF process commences.

Clearly, the \$112.5 million fee fund was intended to cover fees over a long period of time, since that amount could not possibly be justified by the common benefit lodestar in 2013, or even the current common benefit lodestar claimed by Class Counsel to date.

There is more than enough money in the common benefit fee fund to cover any additional

attorneys' fees that will be generated over the next 65 years, and therefore there is no justification for a further 5% holdback on claim payments.

After this Court makes its initial fee award based upon the current guaranteed value of the settlement, Class Counsel should be required to return to this Court every two years or so as claims are filed and paid, and to request a supplemental fee award based upon claims paid during that period. This will ensure that Class Counsel's fees bear a reasonable relationship to the amount of benefits actually conferred upon the class, as required by Third Circuit law, as well as facilitate this Court's continuing oversight of Class Counsel and ensure that Class Counsel fulfills its fiduciary duty to the class. Class Counsel should have a continuing incentive, as class counsel did in *Prudential, supra*, to ensure that as may claims as possible are filed and paid. It would be reversible error for this Court to make a fee award based upon speculation and projections, when the August 7, 2017 registration deadline, and subsequent claim filings, will ultimately define the scope of the benefits that will be conferred by this settlement.⁴

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⁴ This will not necessarily require Class Counsel to continue to submit fee petitions for the next 65 years. Class Counsel has projected a total value of the MAF of \$950 million, but Class Counsel will exhaust the entire \$112.5 million fee fund once the total value of the settlement reaches \$750 million, which should occur long before the end of the claims period.

CONCLUSION

Objector Cleo Miller opposes any fee award to Class Counsel at this time, and requests that this Court (1) defer any fee award until a date after August 7, 2017, and then (2) award Class Counsel no more than 15% of the value of settlement benefits that are guaranteed to be paid to Class Members during the first year of the Settlement Claims Process; (3) void all individual fee contracts between class members and law firms that receive common benefit fee awards; (4) deny Class Counsel's request for a 5% holdback on all monetary awards; (5) require that Class Counsel periodically return to this Court and make incremental fee requests as benefits are actually paid to class members; and (6) defer all fee awards to objectors until such time as the benefits conferred by objectors, if any, may be quantified.

Respectfully submitted, Cleo Miller, By his attorneys,

/s/ John J Pentz John J. Pentz 19 Widow Rites Lane Sudbury, MA 01776 Phone: (978) 261-5725 jjpentz3@gmail.com

Edward W. Cochran 20030 Marchmont Rd. Cleveland Ohio 44122 Phone: (216) 751-5546

EdwardCochran@wowway.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed via the ECF filing system on February 17, 2017, and that as a result electronic notice of the filing was served upon all attorneys of record.

/s/ John J. Pentz John J. Pentz

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL	§	
LEAGUE PLAYERS' CONCUSSION	§	
LITIGATION	§	
	_ §	No. 12-md-2323 (AB)
	§	
	§	MDL No. 2323
THIS DOCUMENT RELATES TO:	§	
ALL ACTIONS	§	

MOTION FOR ENTRY OF CASE MANAGEMENT ORDER GOVERNING APPLICATIONS FOR ATTORNEYS' FEES; COST REIMBURSEMENTS; AND FUTURE FEE SET-ASIDE

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Settlement Class Members Liyongo Patrise Alexander, Charlie Anderson, Charles E. Arbuckle, Cassandra Bailey, as Representative of the Estate of Johnny Bailey Jr., deceased, Ben Bronson, Curtis Ceaser, Jr., Larry Centers, Darrell Colbert, Harry Colon, Christopher Crooms, Jerry W. Davis, Tim Denton, Michael Dumas, Corris Ervin, Doak Field, Baldwin Malcolm Frank, Derrick Frazier, Murray E. Garrett, Clyde Glosson, Roderick Harris, Wilmer K. Hicks, Jr., Patrick W. Jackson, Gary D. Jones, Ryan McCoy, Jerry James Moses, Anthony E. Newsom, Rance Olison, John Owens, Robert Pollard, Derrick Pope, Glenell Sanders, Thomas Sanders, Dwight Scales, Todd C. Scott, Frankie Smith, Jermaine Smith, Tyrone Smith, James A. Young Sr. (collectively, the "Alexander Objectors") respectfully submit the following and request that the Court enter a Case Management Order that establishes a schedule of deadlines governing Applications for Attorneys Fees, Cost Reimbursements, and Future Fee Set-Aside and, in support, would show as follows:

The Court deferred determination of the "appropriate time" for such Applications:

In paragraph 14 of this Court's April 22, 2015, Final Order and Judgment, the Court

ordered that "motions for an award of attorneys' fees and reasonably incurred costs, as contemplated by the Parties in Section 21.1 of the Settlement Agreement, may be filed at an appropriate time to be determined by the Court, after the Effective Date of the Settlement Agreement." The Effective Date of the Settlement Agreement has arrived. As such, and for the orderly presentation of these mounting and competing Applications and the inevitable competition to be "first to the 112.5 million dollar table," the Alexander Objectors respectfully ask that this Court enter a Case Management Order establishing all of the "appropriate time[s]" for the resolution of the fee issues.

As the Court is aware, the NFL Parties have agreed to pay attorneys' fees and reasonable costs and expenses incurred by Plaintiffs' Counsel provided that the request does not exceed \$112.5 million dollars. As the Court is also aware, Applications already on file exceed the sum of \$112.5 million dollars.

Counsel are engaged in a Race to the Courthouse in the absence of guidance:

Co-Class Counsel was not the first to the Courthouse seeking fees, but they have argued that their Application should go first. And, no wonder. Co-Class Counsel' has just recently submitted an Application seeking the *full amount* of \$112.5 million dollars. The amount of the Application arises from the following calculation:

- 1. a request for 9% of the "value of benefits conferred" as calculated by Co-Counsel
- 2. a lodestar cross-check (\$40,559,978.60)
- 3. an enhancement via 2.6 multiplier.

In addition to the Co-Class counsel petition, the Court has also received additional Applications for Fees for professional services alleged to benefit the Class bringing the requested total fees well above \$112.5 million.

Moreover, the Court will be receiving additional Applications in light of the attorneys' fees that were not submitted by Co-Class Counsel. Co-Class Counsel, Mr. Seeger, solicited attorney's time and expenses "incurred for the common benefit of all class members" in preparation for "the petition for award of class attorneys' fees and expenses." *See* July 25, 2016 Letter from Mr. Seeger, Exhibit A. However, Mr. Seeger did not include all attorneys' common benefit submissions he received with the Co-Class Counsel's Fee Application. Thus, for example, the February, 2017 Application by Co-Class Counsel was the first notice the undersigned had that his professional fees incurred for the benefit of the entire Class would not be submitted by Co-Class Counsel. If Co-Class Counsel has unilaterally decided which attorneys are "entitled" to an award of fees, the decision has not been communicated to this Court or to the counsel involved.

The Court is facing complicated questions on class fees:

The Co-Class Counsel Petition for fees, costs, and a set-aside candidly acknowledges that the Settlement contains unique fee features. Without regard to whether Co-Class Counsel is correct in their argument that such features constitute an additional basis for praise, there is no doubt that such features provide a complicating factor for this Court. For example, the NFL parties have set aside an agreed maximum sum for attorneys' fees in the amount of \$112.5 million dollars. The Settlement itself is comprised of three principle components: (1) the uncapped MAF, (2) the BAP; and (3) the education fund. The Settlement timetable is 65 years. Although the Settlement has become effective, no claim history is yet established. Indeed, the 180 day class member registration deadline could materially impact the amount ultimately paid by the NFL and the analysis of monies set aside for future attorneys services.

The existing competing fee applications and objections teach that the following is a list of

issues that already face this Court:

1. What is the proper fee-analysis methodology?

The unique aspects of this Settlement have caused the Co-Class Counsel to characterize the appropriate analysis for their fee Application as neither pure percentage-of-recovery nor pure lodestar; instead, Co-Class Counsel urges the Court to accept a characterization of "constructive common fund." The objectors have criticized this hybrid methodology. The Miller Objectors, for example, propose Co-Class Counsel be compensated in the sum of 15% of "any amounts actually paid to qualifying class members." And, to be sure, for this Court to accept a hybrid methodology will require this Court to write on a largely clean slate. A Case Management Order could establish legal briefing deadlines so that the propriety of a chosen methodology is fully considered.

2. What is the proper methodology for establishing the "value for the Class"?

Co-Class Counsel posit a methodology for establishing the value of the Settlement to the Class: Add together:

- (1) an actuarial 65-year projection of \$900-\$950 million that the uncapped MAF "will pay out";
- (2) the \$75 million BAP medical testing and benefit program;
- (3) the \$10 million education fund "to promote safety and injury prevention for football players of all ages."
- (4) the \$4,000,000 Notice Costs
- (5) the \$11,925,000 Claims Administration Fee; and
- (6) the \$112,500,000 attorneys' fee provision;

for a grand total of \$1,163,425,000.

The objectors have criticized this methodology; as characterized by one objector, the proposed value is based upon "unrealistic assumptions."

This Court should have the opportunity to entertain competing value methodologies. The Court should have the opportunity to read or hear arguments about whether, for example, an education fund for non-class members is – though valuable – of value to the Class.

3. What is the proper method for the Court to verify the hours alleged expended by counsel in service of the Class and costs incurred in that connection?

Using Co-Class Counsel's application as an example, this Court has little beyond experience with the litigation by which to measure the services rendered. Counsel seek fees alleged to have been incurred not just by the six (6) counsel confirmed by this Court. Instead, Class Counsel seeks fees for twenty-three (23) law firms, eighty-one (81) lawyers, seventeen (17) paralegals, six (6) law clerks, and one (1) Information Technology. Neither the application nor the supporting affidavits provide a detailed breakdown of any of the hours. In fact, more than 80% of the affidavits submitted in support of the application are, in fact, virtually identical in substance and vary only in the attached listing of hours and fee. The fees for these eight-one (81) lawyers range from approximately \$250.00 to \$1,350 without explanation beyond the fact that such fees have been paid before. The lawyers hired by this Court have hired additional lawyers; and those lawyers have hired more lawyers, paralegals and law clerks. And, then one of the lawyers hired an information technologist whose hours in excess of 1,000 are billed without explanation. If the Court determines that information technology services may be reimbursed, the Court will no doubt receive additional requests for information-technologist assistance as lawyers uniformly require such help.

It is not a question of whether the Court finds that, in the abstract, 50,912.39 hours is a reasonable amount of time for lawyers to work on a case of this type. It is a question of whether

it is reasonable in this case, based upon the work performed, and the competing claims to a limited resource. It would be inappropriate to simply trust any lawyer on the hours expended; and, limited discovery between the parties would shed light on an appropriate allocation of the limited fund. Unexplained hours multiplied by a global range of fees hardly provides the Court with a lodestar check.

A Case Management Order would permit the Court to vet the reasonableness of the fees through careful consideration of objections. *See In re Baby Products Antitrust Litigation*, 708 F.3d 163, 177 (3d Cir. 2013) (noting that it is appropriate for the Court to address issues raised in objections to fee award).

4. Is it premature to apply an enhancing multiple to current fee applications?

The Settlement is now effective, but only just effective. As, Co-Class Counsel pointed out in their objection to the Faneca Objectors' Petition, the deadline for the NFL Parties to fund the Settlement does not occur until March 8, 2017. Therefore, Co-Class Counsel has characterized as "premature and inefficient" for any fee petition to be briefed and decided before the Petition filed by Co-Class Counsel. And, yet, if this Court decides Co-Class Counsel's Petition first, the fee fund will be completely exhausted, not because Co-Class Counsel have \$112.5 million in fees, but because Co-Class Counsel are already asking for a multiplier.

This Court might determine that, although Co-Class Counsel and the other attorneys need not wait 65 years to submit fee enhancement requests, they need not submit them on the first day when any entitlement to enhancement is, necessarily, gauged by the success of a Settlement that has not yet been implemented in any way.

A schedule for assessing participation and a resultant multiplier for success could be a part of a Case Management Order.

5. Is it premature to order a set-aside for future fees?

The Settlement permits a petition to the Court "to set aside up to five percent" of each monetary award for future fees. It is axiomatic that, by the "up to" language selected by the Court, that this Court needs sufficient information to know whether to award 5% or something less than 5%. Co-Class Counsel has given the Court nothing upon which to base the assessment that 5% will be necessary – and they could not do so at this time inasmuch as any need for future fees before administration of the Settlement begins is the definition of speculative. Co-Class Counsel do not know any more now about the likely participation in the Settlement or the need for legal counsel then they did at the time the Court invited a petition "up to" 5%.

Moreover, the only pressing need for a set-aside for future fees is the exhaustion of the \$112.5 million fund already established for fees. Co-Class Counsel should not be allowed to apply for credit to others' detriment until they demonstrate that it is reasonable to exhaust the existing account.

Time will tell more – the petition for a set-aside should wait. The timing could be addressed by a Case Management Order.

Conclusion

The Court and the parties would benefit by a Case Management Order directed to the related issues of Fees, Costs, and a Set-Aside. A Case Management Order will permit this Court to direct all Applications to be filed by a date certain, all objections to be filed by a date certain, all requests for information among counsel to be completed by a date certain, all legal briefing to be completed by a date certain; and all of these dates certain to be coordinated on a schedule naturally already established by the Settlement. By contrast, piecemeal adjudication of these issues is calculated to create confusion, duplication of effort, and unintended consequences.

Respectfully Submitted,

Mickey Washington

Texas State Bar No.: 24039233

WASHINGTON & ASSOCIATES, PLLC

1314 Texas Ave., Suite 811 Houston, Texas 77002 Telephone: (713) 225-1838

Facsimile: (713) 225-1866

Email: mw@mickeywashington.com

James Carlos Canady

Texas State Bar No.: 24034357 THE CANADY LAW FIRM 5020 Montrose Blvd., Suite 800

Houston, TX 77006

Telephone: (713) 284-5204 Facsimile: (713) 284-5250

Email: ccanady@canadylawfirm.com

/s/ Lance H. Lubel

Lance H. Lubel

Texas State Bar No.: 12651125

Adam Voyles

Texas State Bar No.: 24003121

LUBEL VOYLES LLP Montrose Blvd., Suite 800

Houston, TX 77006

Telephone: (713) 284-5200 Facsimile: (713) 284-5250 Email: lance@lubelvoyles.com adam@lubelvoyles.com

ATTORNEYS FOR THE ALEXANDER PLAINTIFFS/OBJECTORS

Date: February 21, 2017

CERTIFICATE OF CONFERENCE

I hereby certify that counsel for the Alexander Objectors attempted to confer by telephone with Class Counsel, Mr. Christopher Seeger, and counsel for the NFL Parties, Mr. Brad Karp, regarding the relief requested in this motion. I forwarded a draft to Mr. Seeger and suggested a phone conference but did not hear back. Accordingly, it is unknown whether Class Counsel opposes this motion. Accordingly, this matter is presented to the Court for resolution.

/s/ Lance H. Lubel Lance H. Lubel

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of February, 2017, a true and correct copy of the foregoing *Motion for Entry of Case Management Order Governing Applications for Attorneys' Fees, Cost Reimbursements, and Future Fee Set Aside* has been filed with the United States District Court for the Eastern District of Pennsylvania via the Court's CM/ECF system, which will provide electronic notice to all counsel of record and a copy is also being served by First Class Mail on:

Clerk of the District Court/NFL Concussion Settlement U.S. District Court for the Eastern District of Pennsylvania United States Courthouse 601 Market Street Philadelphia, PA 19106-1797

/s/ Adam Q. Voyles Adam Q. Voyles

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

CO-LEAD CLASS COUNSEL'S MOTION FOR EXTENSION OF TIME TO FILE REPLY MEMORANDUM IN SUPPORT OF THEIR FEE PETITION AND TO SET COORDINATED BRIEFING SCHEDULE

Co-Lead Class Counsel respectfully move for an extension of time and for the Court to set a coordinated briefing schedule in order to streamline the process concerning the awarding of attorneys' fees and reimbursement of costs and expenses to counsel representing the Plaintiff Class and, to the extent appropriate, those counsel representing objectors in this MDL.

Since Co-Lead Class Counsel filed their Petition for an Award of Attorney's Fees, Reimbursement of Costs and Expenses, Adoption of a Set-Aside of Each Monetary Award and Derivative Claimant Award, and Case Contribution Awards for Class Representatives [ECF No. 7151] on February 13, 2017 ("Class Counsel Petition"), three responses have been filed. These are the objection to Class Counsel's Petition filed by John J. Pentz, counsel for objector Cleo Miller [ECF No. 7161]; a motion for entry of a Case Management Order concerning the filing and briefing of fee petitions, filed by Lance H. Lubel, counsel for the so-called Alexander Objectors [ECF No. 7176], who suggested that there will be other fee petitions filed by objector counsel or by those plaintiffs' counsel who are not members of the Plaintiffs' Steering Committee ("PSC") or the Plaintiffs' Executive Committee ("PEC")¹; and the partial opposition of the Estate of Kevin Turner [ECF No. 7205], which does not oppose the requested fee award but does challenge the requested 5% set-aside from Monetary Awards.

In addition, prior to the filing of the Class Counsel Petition, two counsel for objectors to the Settlement had filed either a fee petition or a statement of an intention to file one. Specifically, Steven F. Molo, counsel for the Faneca Objectors, filed a Petition for an Award of Attorneys' Fees and Expenses on January 11, 2017 [ECF No. 7070], to which Co-Lead Class Counsel filed a preliminary response on January 25, 2017, asserting that the filing was premature [ECF No. 7106]. On January 31, 2017, counsel for objectors Preston and Katherine Jones, James T. Capretz, filed a letter, stating that he would be filing a fee petition "shortly" [ECF No. 7116],

To the extent there are, those counsel cannot seek compensation out of the Attorneys' Fees Qualified Settlement Fund. The exclusive purpose of that fund is to pay the fees and expenses only of Class Counsel. *See* Settlement Agreement §§ 21.1-21.2, ECF No. 6481-1, at 82. The deadline to contest the Class Counsel Petition and otherwise claim payment out of Class Counsel's fees expired upon the February 27, 2017 deadline for the filing of responses to the Class Counsel Petition, which was filed on February 13, 2017. *See* E.D. Pa. Civ. R. 7.1(c) (any party opposing motion must file response within 14 days after service of motion and brief). As of this date, the only timely claim for fees filed by non-Class Counsel is that of the Faneca Objectors (*i.e.*, Mr. Molo's).

although no petition has been filed as of this date.²

Now that the Class Counsel Petition and responses thereto have been filed and the deadline for the filing of objections has passed, *see supra* at 2 n.1, the briefing of that petition, the responses thereto, and Mr. Molo's cross-petition should be consolidated and coordinated. Co-Lead Class Counsel intend to file a single omnibus response to all of the filings of the aforementioned counsel, including Mr. Molo's cross-petition. An omnibus response will streamline the attorneys' fees proceedings and serve the interests of judicial efficiency and economy by having a single, consolidated response filed on one date instead of piecemeal replies or responses to the various filings, thereby sparing the Court from having to consult a multiplicity of briefs for Class Counsel's responses to the various arguments of objectors made either in opposition to the Class Counsel Petition or in support of their own cross-petition for fees.

As such, Co-Lead Class Counsel require additional time to address all arguments meriting responses. Under the Local Rules, unless an extension is granted, the first of Co-Lead Class Counsel's responses to these filings, namely their reply to Mr. Pentz's objection [ECF No. 7161], would be due this Friday, March 3, 2017.

Accordingly, Co-Lead Class Counsel respectfully request that the Court grant the requested extension and propose that it set the following coordinated briefing schedule:

1. Co-Lead Class Counsel's omnibus memorandum in reply to all objections or other responses to the Class Counsel Petition and in response to the Faneca Objectors' (*i.e.*, Mr. Molo's) cross-petition for attorneys' fees and reimbursement of expenses shall be filed no later than **March 16, 2017**.

Thus, for the reasons explained in note 1 above, any petition for payment out of Class Counsel's fees would now be out of time.

2. The Faneca Objectors' reply in support of their cross-petition for attorney's fees and reimbursement of expenses shall be filed no later than **March 27, 2017**.³

Dated: February 28, 2017

Respectfully submitted,

/s/ Christopher A. Seeger Christopher A. Seeger SEEGER WEISS LLP 77 Water Street New York, NY 10005 Phone: (212) 584-0700 Fax: (212) 584-0799

cseeger@seegerweiss.com

Co-Lead Class Counsel

Sol Weiss ANAPOL WEISS One Logan Square 130 N. 18th St. Ste. 1600 Philadelphia, PA 19103 Phone: (215) 735-1130 Fax: (215) 735-2024 sweiss@anapolweiss.com

Co-Lead Class Counsel

³ Because the instant motion is purely procedural, Co-Lead Class Counsel respectfully request that the Court relieve them of the Local Rule 7.1(c) requirement of the filing of a supporting brief.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing was served electronically via the Court's electronic filing system on the date below upon all counsel of record in this matter.

Dated: February 28, 2017

/s/ Christopher A. Seeger Christopher A. Seeger

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

)		
IN RE: NATIONAL FOOTBALL LEAGUE)	2:12-md-02323-AB	
PLAYERS' CONCUSSION INJURY LITIG.,)		
)		

OPPOSITION TO CO-LEAD CLASS COUNSEL'S MOTION TO SET COORDINATED BRIEFING SCHEDULE

Class member Cleo Miller hereby opposes Class Counsel's Motion to Set a Coordinated Briefing Schedule, because the proposed schedule improperly incorporates Class Counsel's illogical assertion that any fee petition not already on file is somehow time-barred. To the contrary, all fee petitions are currently premature, because there is currently no evidence before the Court of the value of benefits conferred upon the class on which to base a percentage fee award. The universe of potential settlement beneficiaries will not be known until August 7, 2017, and the number of class members with Qualifying Diagnoses will not be known until several months after the BAP program commences. Therefore, there is no reason for this Court to set an arbitrarily premature deadline for the filing of fee petitions, when those petitions would not be ripe at this time.

Class Counsel's assertion that the deadline for filing a fee petition was 14 days after their fee petition was filed is illogical and wrong. While that was the deadline for opposing Class Counsel's fee petition, there is no reason why objectors should have rushed to file incomplete fee petitions within that two week period. While exhaustion of the fee fund could render subsequent fee petitions moot, due to a lack of funds to pay

¹ As noted in Mr. Miller's Opposition to Class Counsel's Fee Petition, Class Counsel may be entitled to an immediate first stage fee award based upon the guaranteed portion of the BAP fund, but that is all.

them, there is no reason to be concerned about this if this Court follows Mr. Miller's recommendation, which has long been followed in this Circuit, to stage the fee awards and award fees only as benefits to the Class are paid out. In this case, it should be easy to identify which claims are attributable to the objectors' amendments, and which were included in the original settlement, for purposes of allocation of credit for the settlement benefits.

CONCLUSION

Objector Cleo Miller opposes any fee award to Class Counsel or anyone else at this time, and requests that this Court (1) defer any fee awards until a date after August 7, 2017, and then (2) award Class Counsel no more than 15% of the value of settlement benefits that are guaranteed to be paid to Class Members during the first year of the Settlement Claims Process; and (3) consider any fee petitions filed by counsel for objectors as they are made, with no arbitrary deadline, based upon proven benefits conferred upon Class members as a result of the amendments.

Respectfully submitted, Cleo Miller, By his attorneys,

/s/ John J Pentz John J. Pentz 19 Widow Rites Lane Sudbury, MA 01776 Phone: (978) 261-5725 jjpentz3@gmail.com

Edward W. Cochran 20030 Marchmont Rd. Cleveland Ohio 44122 Phone: (216) 751-5546 EdwardCochran@wowway.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed via the ECF filing system on March 1, 2017, and that as a result electronic notice of the filing was served upon all attorneys of record.

/s/ John J. Pentz John J. Pentz

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL	§	
LEAGUE PLAYERS' CONCUSSION	§	
LITIGATION	§	
	§	No. 12-md-2323 (AB)
	§	
KEVIN TURNER & SHAWN WOODEN	§	MDL No. 2323
on behalf of themselves and others similarly	§	
situated	§	Civ. Action No. 14-00029-AB
	§	
v.	§	
	§	
National Football League and	§	
NFL Properties LLC,	§	
successor-in-interest to NFL Properties, Inc.	§	
	§	
	§	
	§	
THIS DOCUMENT RELATES TO:	§	
ALL ACTIONS	§	

ARMSTRONG OBJECTORS' PETITION FOR AN AWARD OF ATTORNEYS' FEES

Pursuant to FED R. CIV. P. 23(h), Objectors Raymond Armstrong, Larry Barnes, Larry Brown, Drew Coleman, Kenneth Davis, William B. Duff, Kelvin Mack Edwards, Sr., Phillip E. Epps, Gregory Evans, Charles L. Haley, Sr., Mary Hughes, James Garth Jax, Ernest Jones, Michael Kiselak, Dwayne Levels, Darryl Gerard Lewis, Gary Wayne Lewis, Jeremy Loyd, Lorenzo Lynch, Tim McKyer, David Mims, Clifton L. Odom, Evan Ogelsby, Solomon Page, Hurles Scales, Jr., Barbara Scheer, Kevin Rey Smith, Willie T. Taylor, George Teague, and Curtis Bernard Wilson (collectively, the "Armstrong Objectors") respectfully move for an award of attorneys' fees, as set forth in the Supporting Memorandum of Law.

Date: March 1, 2017

Respectfully submitted,

/s/ Richard L. Coffman

Richard L. Coffman

THE COFFMAN LAW FIRM

First City Building

505 Orleans, Fifth Floor

Beaumont, Texas 77701

Telephone: (409) 833-7700 Facsimile: (866) 835-8250

Email: rcoffman@coffmanlawfirm.com

Mitchell A. Toups

WELLER, GREEN, TOUPS & TERRELL, LLP

2615 Calder Ave., Suite 400

Beaumont, TX 77702

Telephone: (409) 838-0101 Facsimile: (409) 838-6780 Email: matoups@wgttlaw.com

Jason C. Webster

THE WEBSTER LAW FIRM

6200 Savoy, Suite 150

Houston, TX 77036

Telephone: (713)581-3900 Facsimile: (713) 581-3907

Email: jwebster@thewebsterlawfirm.com

Mike Warner

THE WARNER LAW FIRM

101 Southeast 11th Suite 301

Amarillo, TX 79101

Telephone: (806) 372-2595

Email: mike@thewarnerlawfirm.com

COUNSEL FOR THE ARMSTRONG OBJECTORS

CERTIFICATE OF SERVICE

I certify that a true copy of the Armstrong Petition for an Award of Attorneys' Fees was served on all counsel of record, via the Court's ECF system, on March 1, 2017.

/s/ Richard L. Coffman Richard L. Coffman

COUNSEL FOR THE ARMSTRONG OBJECTORS

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

)	
IN RE: NATIONAL FOOTBALL LEAGUE)	2:12-md-02323-AB
PLAYERS' CONCUSSION INJURY LITIG.,)	
)	

[CORRECTED] OPPOSITION TO CO-LEAD CLASS COUNSEL'S MOTION TO SET COORDINATED BRIEFING SCHEDULE

Class member Cleo Miller hereby opposes Class Counsel's Motion to Set a

Coordinated Briefing Schedule, because the proposed schedule improperly incorporates

Class Counsel's illogical assertion that any fee petition not already on file is somehow

time-barred. To the contrary, all fee petitions are currently premature, because there is

currently no evidence before the Court of the value of benefits conferred upon the class

on which to base a percentage fee award. The universe of potential settlement

beneficiaries will not be known until August 7, 2017, and the number of class members

with Qualifying Diagnoses will not be known until several months after the BAP

program commences. Therefore, there is no reason for this Court to set an arbitrarily

premature deadline for the filing of fee petitions, when those petitions would not be ripe

at this time.

¹ Furthermore, Class Counsel's and MoloLamken's fee petitions are premature because this Court has not yet determined that it is appropriate to file fee petitions at this time, pursuant to ¶14 of the Final Order and Judgment ("motions for and award of attorneys' fees and reasonable incurred costs ... may be filed at an appropriate time to be determined by the Court..."). In addition, motions for fees and costs filed in this case are governed by FRCP 23(h)(1), which requires that notice of a motion for fees by class counsel be directed to all class members in a reasonable manner. While the parties recently sent notice to class members of the registration deadline, that notice made no mention of the filing of class counsel's fee motion. *All class members* (not just those who previously entered an appearance in the case and are receiving ECF notices) have the right to object to class counsel's fee motion. FRCP 23(h)(2). Until all class members have received adequate notice of the filing of class counsel's fee motion, and have had an opportunity to object to it, this Court may not award any fees. For this reason as well, the time for objecting to class counsel's fee motion has not even commenced, let alone expired.

Class Counsel's assertion that the deadline for filing a fee petition was 14 days after their fee petition was filed is illogical and wrong. There is no reason why objectors should have rushed to file incomplete fee petitions within that two week period, in the absence of an order by this Court pursuant to ¶14 of the Final Judgment. While exhaustion of the fee fund could render subsequent fee petitions moot, due to a lack of funds to pay them, there is no reason to be concerned about this if this Court follows Mr. Miller's recommendation, which has long been followed in this Circuit, to stage the fee awards and award fees only as benefits to the Class are paid out. In this case, it should be easy to identify which claims are attributable to the objectors' amendments, and which were included in the original settlement, for purposes of allocation of credit for the settlement benefits.

CONCLUSION

Objector Cleo Miller opposes any fee award to Class Counsel or anyone else at this time, and requests that this Court (1) defer any fee awards until a date after August 7, 2017, and then (2) award Class Counsel no more than 15% of the value of settlement benefits that are guaranteed to be paid to Class Members during the first year of the Settlement Claims Process; and (3) consider any fee petitions filed by counsel for objectors as they are made, with no arbitrary deadline, based upon proven benefits conferred upon Class members as a result of the amendments.

Respectfully submitted, Cleo Miller, By his attorneys,

/s/ John J Pentz John J. Pentz 19 Widow Rites Lane Sudbury, MA 01776 Case: (18s20222-rDtb-020002014A603D1083116592723Pageie7453/01Dtate Filed: (108/09/2019

Phone: (978) 261-5725 jipentz3@gmail.com

Edward W. Cochran 20030 Marchmont Rd. Cleveland Ohio 44122 Phone: (216) 751-5546 EdwardCochran@wowway.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed via the ECF filing system on March 1, 2017, and that as a result electronic notice of the filing was served upon all attorneys of record.

/s/ John J. Pentz John J. Pentz

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION	§ §	
LITIGATION	§	
	§	No. 12-md-2323 (AB)
	§	
KEVIN TURNER & SHAWN WOODEN	§	MDL No. 2323
on behalf of themselves and others similarly	§	
situated	§	Civ. Action No. 14-00029-AB
	§	
v.	§	
	§	
National Football League and	§	
NFL Properties LLC,	§	
successor-in-interest to NFL Properties, Inc.	§	
	§	
	§	
	§	
THIS DOCUMENT RELATES TO:	§	
ALL ACTIONS	§	

ARMSTRONG OBJECTORS' MEMORANDUM OF LAW IN SUPPORT OF THEIR PETITION FOR AN AWARD OF ATTORNEYS' FEES

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In re Cardinal Health, Inc. Sec. Litig., 550 F. Supp.2d 751 (S.D. Ohio 2008)	18
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Dewey v. Volkswagen of Am., 909 F. Supp.2d 373 (D.N.J. 2012)	3, 21, 25
In re Diet Drugs Prods. Liab. Litig., 582 F.3d 524 (3d Cir. 2009)	22
In re Domestic Air Transp. Antitrust Litig., 148 F.R.D. 297 (N.D. Ga. 1993)	16, 18
Eubank v. Pella Corp., 753 F.3d 718 (7th Cir. 2014)	18
Frankenstein v. McCrory Corp., 425 F. Supp. 762 (S.D.N.Y. 1977)	19
In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig., 55 F.3d 768 (3d Cir. 1995)	18, 23
Great Neck Capital Appreciation Inv. P'ship, LP v. PricewaterhouseCoopers, LLP 212 F.R.D. 400 (E.D. Wis. 2002)	17, 27
Howes v. Atkins, 668 F. Supp. 1021 (E.D. Ky. 1987)	19
In re Ikon Office Sols., Inc., Sec. Litig., 194 F.R.D. 166 (E.D. Pa. 2000)	18, 22, 25, 27

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Kirchoff v. Flynn,	
786 F.2d 320 (7th Cir. 1986)	25
Lan v. Ludrof,	
No. 1:06-cv-114, 2008 WL 763763 (W.D. Pa. 2008)	21
In re Linerboard Antitrust Litig.,	
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McDonough v. Toys "R" Us, Inc.,	
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In re Nat'l Football League Players' Concussion Injury Litig.,	20
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In re Nat'l Football League Players' Concussion Injury Litig., 961 F. Supp.2d 708 (E.D. Pa. 2014)	0.20
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In re Prudential Ins. Co. of Am. Sales Practices Litig., 273 F. Supp.2d 563 (D.N.J. 2003)	5
In re Prudential Ins. Co. Am. Sales Practices Litig. Agent Actions, 148 F.3d 283 (3d Cir. 1998)	22
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Other Authorities

 Pursuant to Fed. R. Civ. P. 23(h), Objectors Raymond Armstrong, Larry Barnes, Larry Brown, Drew Coleman, Kenneth Davis, William B. Duff, Kelvin Mack Edwards, Sr., Phillip E. Epps, Gregory Evans, Charles L. Haley, Sr., Mary Hughes, James Garth Jax, Ernest Jones, Michael Kiselak, Dwayne Levels, Darryl Gerard Lewis, Gary Wayne Lewis, Jeremy Loyd, Lorenzo Lynch, Tim McKyer, David Mims, Clifton L. Odom, Evan Ogelsby, Solomon Page, Hurles Scales, Jr., Barbara Scheer, Kevin Rey Smith, Willie T. Taylor, George Teague, and Curtis Bernard Wilson (collectively, the "Armstrong Objectors") respectfully move for an award of attorneys' fees, stating the following:

INTRODUCTION

"'[I]t is well settled that objectors have a valuable and important role to perform in preventing . . . unfavorable settlements, and . . . they are entitled to an allowance as compensation for attorneys' fees and expenses where a proper showing has been made that the settlement was improved as a result of their efforts." *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 743 (3d Cir. 2001) (quoting *White v. Auerbach*, 500 F.2d 822, 828 (2d Cir. 1974)).

The Armstrong Objectors, therefore, respectfully request an award of their Counsel's straight time, hourly attorneys' fees with no multiplier reflecting the role they played in significantly enhancing the Revised Settlement that became the Final Settlement and, in the process, delivering a collateral benefit to Class Members in the form of additional valuable time (over 19 months)¹ to be examined by a board certified neuro-specialist physician of their choice (for purposes of securing a Qualifying Diagnosis for a monetary award), rather than being examined by a physician selected for them by the NFL and Class Counsel.

¹ The additional 19-month period hereafter will be referred to as the "Collateral Time Benefit." Securing the Collateral Time Benefit was not the purpose for filing the Armstrong Objectors' appeals. Although lagniappe, it is a Class Member benefit delivered by the Armstrong Objectors just the same.

BACKGROUND

The Armstrong Objectors are thirty-four former NFL players and family members of players with distinguished playing careers. The Armstrong Objectors collectively played an average of over six seasons with over twenty different teams. They include offensive and defensive linemen, linebackers, defensive backs, wide receivers, tight ends and a running back. The Armstrong Objectors include All-Americans, Pro Bowl selections, Super Bowl champions, and a Super Bowl MVP. The oldest Armstrong Objector began his NFL career in 1946. The youngest Armstrong Objector retired after the 2011 season. One played on five Super Bowl Championship teams, three played on three Super Bowl Championship teams, one played on one Super Bowl Championship team, and one played in NFL Europe. The Armstrong Objector group was the second largest objector group.

The central dispute before this Court was whether the ultimate settlement reached by the NFL and Class Counsel was fair, adequate, and reasonable. Class Counsel and counsel for the NFL engaged in preliminary motion practice, briefing and arguing a motion to dismiss on the question of whether federal labor law preempted the action. Then, at the Court's direction, the case was mediated and settled (the "Initial Settlement"). There was no decision on the motion to dismiss, no discovery, no contested class certification, no summary judgment practice, and no bellwether trial. This case, therefore, was all about the negotiated settlement.

However, as this Court recognized *sua sponte*, the Initial Settlement was inadequate. Then came a Revised Settlement, to which the Armstrong Objectors objected by—

- (i) Raising key legal issues, several of which were novel and complex;
- (ii) Leading the objectors' efforts that resulted in revisions to the Revised Settlement giving rise to the Final Settlement, with its value enhanced by as much as \$63.65 million;

- (iii) Leading the efforts to test the Final Settlement on appeal at the Third Circuit Court of Appeals, which also provided the Collateral Time Benefit to Class Members; and
- (iv) When others stopped, testing the Final Settlement further on appeal at the United States Supreme Court, which provided an additional Collateral Time Benefit to Class Members.

The Armstrong Objectors' hard work spanned a three year period. All told, the Armstrong Objectors' Counsel—the Coffman Law Firm, Weller, Green, Toups & Terrell, LLP, the Webster Law Firm, and the Warner Law Firm—collectively spent more than 1175 hours and advanced more than \$70,000 of out-of-pocket expenses working on this matter. They did so on a 100% contingency basis, with full risk of non-payment.

In addition to enhancing the overall settlement, the Armstrong Objectors' extensive work "transform[ed] the settlement hearing into a truly adversarial proceeding." *Dewey v. Volkswagen of Am.*, 909 F. Supp. 2d 373, 395 (D.N.J. 2012) (quotation marks omitted) (awarding objectors' counsel fees). The result of that "truly adversarial" fairness hearing is a vastly improved Final Settlement that provides more relief for a more Class Members than the prior versions of the settlement advanced by Class Counsel and the NFL. Equally as important, the fairness of the Final Settlement has been tested through high-level advocacy—allowing the courts, Class Members, and the public to conclude that the result achieved, while not perfect, is just.

The Armstrong Objectors, therefore, respectfully request a fee award commensurate with their hard work transforming the process into a truly adversarial proceeding, enhancing the overall value of the settlement, and delivering the Collateral Time Benefit to Class Members. In doing so, the Armstrong Objectors do not object to the attorneys' fees and expenses sought by Class Counsel (Doc. #7151)—provided, of course, that the Armstrong Objectors' Counsel's requested attorneys' fees also are paid.

PROCEDURAL HISTORY

A. The Initial Settlement was rejected by the Court sua sponte.

In 2011, several retired NFL players and their families sued the NFL, alleging the NFL misled them about the risks of repeated multiple traumatic brain injury ("MTBI") and breached its duty to protect players' health and safety. The cases were consolidated in this Court.

The NFL moved to dismiss the cases on preemption grounds. While the NFL's motion was pending, the Court ordered the Parties to mediation. In August 2013, Class Counsel and the NFL announced the Initial Settlement.

Thereafter, Class Counsel filed a putative Class Action Complaint on behalf of Kevin Turner and Shawn Wooden as representatives of all retired NFL players. Class Counsel simultaneously filed a motion for preliminary approval of the Initial Settlement. Doc. #5634. The Initial Settlement created a Monetary Award Fund ("MAF"), capped at \$675 million, to compensate retired players diagnosed with one of five specific Qualifying Diagnoses. Despite the numerous diseases and symptoms linked to MTBI alleged in the Class Action Complaint, the MAF provided awards only for individuals diagnosed with Parkinson's disease, Alzheimer's disease, ALS, and sufficiently severe dementia ("Level 1.5" and "Level 2" neurocognitive impairment).

The Initial Settlement, however, did not provide for an ongoing award for chronic traumatic encephalopathy ("CTE")—even though CTE was the disease at the heart of the Class Action Complaint and many of the precursor lawsuits. Instead, the Initial Settlement provided "Death with CTE" benefits only for players who died and received a post-mortem diagnosis of CTE before preliminary approval of the Initial Settlement.

The Initial Settlement also applied several criteria to determine each claimant's award, including a maximum award for each Qualifying Diagnosis, subject to being reduced depending

on the player's age and the number of seasons played in the NFL (with at least five "eligible seasons" being required for a full award). The Initial Settlement "specifically excluded" seasons played in NFL Europe (or the NFL's other European leagues) from eligible-season credit, even though it fully released players' claims for injuries suffered while playing in NFL Europe. The Initial Settlement also reduced awards by 75% for players who suffered a single stroke, or a single instance of traumatic brain injury not related to NFL play and imposed a \$1,000 fee on Class Members who appeal adverse determinations of their MAF claims.

The Initial Settlement also created a Baseline Assessment Program ("BAP") Fund (capped at \$75 million), which would provide players with an examination to establish a baseline of each player's neurocognitive functioning. But not every Class Member was entitled to such an examination. Only Class Members with at least half of an eligible season could participate in the BAP. The BAP examination also would screen players for dementia or neurocognitive impairment. Players diagnosed with "Level 1" neurocognitive impairment by the examination could receive "supplemental benefits" to cover the cost of treatment.

Slightly over a week after Class Counsel filed their motion for preliminary approval of the Initial Settlement, the Court *sua sponte* denied the motion. *In re Nat'l Football League Players' Concussion Injury Litig.*, 961 F. Supp. 2d 708, 716 (E.D. Pa. 2014). Noting its "duty to protect the rights of all potential class members" (*id.* at 710), the Court declined to preliminarily approve the Initial Settlement because the MAF lacked "the necessary funds to pay Monetary Awards for Qualifying Diagnoses." *Id.* at 715.

Six months later, on June 25, 2014, Class Counsel submitted a Revised Settlement with a motion for preliminary approval. Doc. #6073. The Revised Settlement addressed the Court's concerns by eliminating the \$675 million cap on the MAF. The Revised Settlement also retained,

among other things, the \$75 million cap on the BAP Fund (*id.* at 4), continued to deny any credit for seasons played in NFL Europe (Doc. #6087 § 2.1(kk)), and retained the 75% reductions for stroke or non-NFL TBI (*id.* § 6.7(b)(ii)-(iii)). On July 7, 2014, the Court preliminarily approved the Revised Settlement. Doc. #6084

B. The Armstrong Objectors file their Objection, Amended Objection, and Supplemental Objection suggesting improvements to the Revised Settlement.

Rather than wasting the time and resources of the Court, the appellate court, and the Parties by seeking to intervene in the action, opposing preliminary approval of the Revised Settlement, and appealing preliminary approval of the Revised Settlement to the Third Circuit—as other objectors did—the Armstrong Objectors played by the rules and filed their Objection to the Revised Settlement.

Paragraph 4(h) of the preliminary approval order (Doc. #6084) established October 14, 2014 as the deadline to object to the Revised Settlement, referencing the attached Long Form Notice (Doc. #6084-1) for the precise objection procedure. FAQ No. 35 in the Long Form Notice required all objections to be mailed to the Clerk of the Court for the Eastern District of Pennsylvania. So, on September 3, 2014, *more than a month before the objection deadline*, and long before any objections were *filed* on the Court's ECF, the Armstrong Objectors mailed their Objection to the Clerk of the Court as directed by the Court's preliminary approval order. The Court eventually filed the Armstrong Objectors' Objection on the ECF. Doc. #6353.

Later, on October 13, 2014, after additional former NFL players joined the Armstrong Objector group, the Armstrong Objectors overnighted their Amended Objection to the Court. The Court also filed their Amended Objection on the ECF. Doc. #6233. Thereafter, on April 13, 2015, the Armstrong Objectors filed a Supplemental Objection on the ECF. Doc. #6503.

In their comprehensive Objection (Doc. #6353) and Amended Objection (Doc. #6233), the Armstrong Objectors articulated sixteen detailed, multi-part objections to the Revised Settlement, as well as concrete proposals for curing the defects—including, among others, opening up the BAP, extending the Death with CTE benefits eligibility period, and eliminating the \$1,000 appeal fee.

- C. The Court approved the Final Settlement after Class Counsel and the NFL adopted improvements suggested by the Armstrong Objectors.
 - 1. After the Revised Settlement, final fairness hearing, the Court suggested several improvements mirroring improvements suggested by the Armstrong Objectors.

On November 19, 2014, the Court conducted the final fairness hearing on the Revised Settlement. Thereafter the Court issued an order suggesting five specific improvements that, in the Court's view, would "enhance the fairness, reasonableness, and adequacy of" the Revised Settlement. Doc. #6479. Among other things, the Court opined that the "settlement should assure that all living Retired NFL Football Players who timely register for the Settlement" receive a BAP baseline examination. *Id.* The Court also urged that the "Qualifying Diagnosis of Death with CTE" should include players who die between the dates of preliminary approval and final approval, thereby extending the eligibility period. *Id.* And the Court recommended that the Revised Settlement provide a hardship provision under which the \$1000 appeal fee could be waived. *Id.* Each of these suggestions addressed defects in the Revised Settlement rooted in the objections first lodged by the Armstrong Objectors. *See* Objection (Doc. #6353).

2. The Parties adopted the settlement improvements suggested by the Armstrong Objectors and echoed by the Court. The resulting Final Settlement was approved.

On February 13, 2015, Class Counsel and the NFL submitted a Final Settlement containing provisions addressing each of the Court's above suggestions. Doc. #6481. The improvements mirrored those suggested by the Armstrong Objectors.

Among other things, the Final Settlement ensured that every retired player eligible to receive a BAP examination would receive one. *Id.* at 4. It also extended eligibility for Death with CTE benefits to players who died before the final approval date (April 22, 2015), rather than those who died before the preliminary approval date (July 7, 2014)—a nine month *plus* extension. *Id.* at 4-5. And it adopted the Court's suggestion regarding the appeal fee hardship provision. *Id.* at 5. The Court granted final approval to the Final Settlement on April 22, 2015. Doc. #6510.

D. The Armstrong Objectors' Third Circuit and Supreme Court Appeals

In May 2015, twelve groups of objectors (a total of 93 appellants)—led by the Armstrong Objectors—appealed the Court's final approval order. On appeal, the Armstrong Objectors (i) argued that the Final Settlement's substance (terms) and procedure (structure of the negotiations) improperly resulted in Death with CTE benefits being awarded to present claimants at the expense of future claimants (*i.e.*, the disparate treatment between former players diagnosed with CTE before final approval, and those diagnosed after final approval), (ii) argued that the Parties' attempt to delay scrutiny of attorneys' fees until after final approval was a denial of due process, and (iii) offered several solutions for the Final Settlement's structural defects, including appointing independent counsel, excluding future CTE claims from the release, compensating CTE with evolving diagnostic criteria, and providing back-end opt-out rights to protect future claimants. *See* Armstrong Objectors' Corr. Brief (filed Sept. 14, 2015 in the Third Circuit).

Oral argument in the Third Circuit was scheduled for November 19, 2015. Noted appellate advocate, Deepak Gupta ("Gupta"), of Gupta Wessler, PLLC in Washington, D.C., one of the Armstrong Objectors' Counsel, took the lead, organizing counsel for 87 of the 93 appellants. *See* Joint Proposal of Appellants Regarding Oral Argument (filed Oct. 29, 2015 in the Third Circuit)

(noting that "[t]he Faneca Objectors (representing 4 of the 93 objectors) have indicated that they do not consent to our proposal, but have not provided a counterproposal.").

When the Joint Proposal was denied by the Third Circuit, Gupta again organized appellants' counsel and submitted a Revised Joint Proposal on Division of Argument Time (filed Nov. 13, 2015 in the Third Circuit). This time, the Faneca Objectors got on board. *Id*.

Gupta took the lead at oral argument, addressing the inadequate representation of future injury claimants in the Final Settlement, addressing the attorneys' fee deferral issue, and handled a portion of the rebuttal. *See* Transcript of the November 19, 2015 Third Circuit oral argument at 29:20-52:13; 114:1-124:9. Indeed, the justices were most interested in the topics presented by Gupta as he addressed them longer than any other appellant's lawyer. *Id*.

On April 18, 2016 (amended May 2, 2016), the Third Circuit, in a 70-page opinion, affirmed the Court's order granting final approval of the Final Settlement. *See In re Nat'l Football League Players' Concussion Injury Litig.*, 821 F.3d 410 (3d Cir. 2016). And even though as a direct result of the Armstrong Objectors' efforts, the Final Settlement was improved substantially and its fairness tested, their job was not yet finished.

When others gave up, the Armstrong Objectors pressed on. Believing in their position—their courage never wavering—they filed a petition for writ of *certiorari* with the United States Supreme Court. Although the Supreme Court ultimately denied their petition on December 12, 2016, they never gave up fighting to improve the Final Settlement for their fellow Class Members, securing for the Class Members the critical Collateral Time Benefit in the process.

THE ARMSTRONG OBJECTORS INCREASED THE VALUE OF THE SETTLEMENT AND DELIVERED THE COLLATERAL TIME BENEFIT

The improvements to the Revised Settlement that became the Final Settlement—all of which are the direct result of the Armstrong Objectors' efforts—can fairly be valued at up to \$63.65

million. Based on the Armstrong Objectors' Objections, the Court encouraged the settling Parties to ensure that every eligible Class Member receives a BAP examination, expand the Death with CTE benefits eligibility period, and waive the \$1,000 appeal fee in cases of financial hardship. Class Members will benefit enormously from these settlement enhancements. But there's more. The Armstrong Objectors' also provided Class Members with the Collateral Time Benefit.

A. The Armstrong Objectors' efforts resulted in guaranteed BAP examinations for all eligible Class Members.

The Final Settlement entitles many Class Members to receive a BAP baseline examination when, under the Revised Settlement, they would not have received one. Thanks to the Armstrong Objectors' efforts, players who might not have otherwise been able to have their health evaluated and a course of treatment charted will now be able to do so. The benefits to the quality of life for these former players and their families exceed any monetary value that could be place on this settlement benefit. But a monetary value can be assigned to this benefit nonetheless.

The Revised Settlement capped the BAP Fund at \$75 million. Doc. #6087 § 23.3(d). Under the Final Settlement, however, every eligible Class Member will receive a BAP examination due to the Armstrong Objectors' efforts. Doc. #6481-1 §§ 23.1(b), 23.3(d). The NFL's actuary estimated that \$27 million in supplemental benefits would be paid from the BAP Fund. Doc. #6168 ¶ 54. Separately, the total cost of baseline examinations—each worth \$3500 (Doc. #6423-21 ¶ 24)—for the 16,962 living Class Members² eligible for an examination could reach \$59.4 million (*i.e.*, 16,962 eligible Class Members times \$3500). *See* Doc. #6167 at 18 (Table 4-3);

According to Class Counsel's actuary, 15,227 Class Members have not yet filed a complaint, while 4207 Class Members have. Doc. #6167 at 18 (Table 4-3). Of the 4207 Class Members who have filed a complaint, however, 76 are deceased and will not participate in the BAP. *Id.* at 14 (Table 4-1 n.1). Another 96 have already received a qualifying diagnosis and will also not participate. *See* Doc. #6423-21 ¶ 23. Since according to Faneca Objectors' counsel, approximately 2300 Class Members played only in NFL Europe, 16,962 Class Members remain to participate in the BAP.

#6423-21 ¶24. The total cost of these two benefits exceeds the original \$75-million cap by \$11.4 million. Thus, eliminating the cap and opening up the BAP could yield an additional benefit to Class Members up to \$11.4 million.

B. The Armstrong Objectors' efforts also resulted in an expanded eligibility period for Death with CTE benefits.

The Final Settlement also offers additional relief to Class Members who suffered with CTE by expanding the eligibility period for Death with CTE benefits. Under the Revised Settlement, Class Members who died and were diagnosed with CTE post-mortem after the preliminary approval date would have received nothing. Doc. #6087 Ex. B-1 ¶ 5. Thanks to the Armstrong Objectors' efforts, the Final Settlement extends the time frame for securing a Death with CTE Qualifying Diagnosis—which carries up to a \$4 million award—by over nine months (*i.e.*, from July 7, 2014 to April 22, 2015). Doc. #6481-1 Ex. B-1 ¶ 5.

Between July 7, 2014 and April 22, 2015, 111 Class Members passed away.³ According to recent Boston University research, CTE was present in the brains of 96% of all deceased NFL players whose brains were examined in an autopsy.⁴ Thus, of these 111 deceased Class Members, 106 can be reasonably expected to have CTE and qualify for Death with CTE benefits in an average amount of approximately \$421,000 (accounting for their age at death and number of eligible seasons per player data on NFL.com). Thus, due to the Armstrong Objectors' hard work, the value of the Final Settlement was increased by up to \$44.6-million (*i.e.*, \$421,000 *times* 106 deceased Class Members who can be reasonably expected to have CTE).

³ See Oldest Living Pro Football Players, 2016-2010 Pro Football Necrology List, http://www.oldestlivingprofootball.com/present2010necrology.htm (last visited Feb. 18, 2017).

⁴ Jason M. Breslow, *New: 87 Deceased NFL Players Test Positive for Brain Disease*, FRONTLINE (Sept. 18, 2015), http://www.pbs.org/wgbh/frontline/article/new-87-deceased-nfl-players-test-positive-for-brain-disease/ (last visited Feb. 18, 2017).

C. The Armstrong Objectors' efforts also resulted in the \$1,000 appeal fee being waived for good cause.

To receive a monetary award under the Final Settlement, Class Members must submit a Claim Package to the Claims Administrator, who may approve or deny the claim. Doc. #6481-1 § 9.3. When a claim is denied, the Class Member may appeal to the Court (in consultation with the Appeals Advisory Panel and/or Appeals Advisory Panel Consultant). *Id.* § 9.8. But to do so, the Class Member must pay a \$1,000 appeal fee that will be refunded only if the appeal is successful. *Id.* § 9.6(a).

The Revised Settlement required the appeal fee to be paid regardless of a Class Member's financial circumstances. Doc. #6087 § 9.6(a). Thanks to the Armstrong Objectors' efforts, under the Final Settlement, the appeal fee will be waived "for good cause" (Doc. #6481-1 § 9.6(a)(i))—thereby paving the way for denied claims to be appealed that otherwise would not be appealed and adding significant value to the Final Settlement.

In the NFL's disability-claims process, approximately 16.2% of all claims paid are initially denied, but ultimately paid after appeal.⁵ Class Counsel's actuary calculated that 3596 Class Members will be entitled to receive an award under the Final Settlement. Doc. #6167 at 5 (Table 2-1). Assuming the claims process here resembles the NFL disability claims process, about 582 awards will be initially denied, but approved on appeal. If the \$1,000 appeal fee deterred only 5% of those appeals,⁶ about 29 Class Members would not receive monetary awards that they

⁵ See L. Elaine Halchin, Former NFL Players: Disabilities, Benefits, and Related Issues, Congressional Research Service (April 8, 2008), http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1530&context=key_workplace (last visited Feb. 18, 2017). From July 1, 1993 to June 26, 2007, 1052 applications for disability benefits were filed. *Id.* Of these applications, 358 were initially approved; another 69 were initially denied, but approved on appeal. *Id.* Thus of the 427 total approvals, 16.2% (69 divided by 427) were approved on appeal.

This is a conservative estimate of the number of Class Members who could not afford the \$1,000 appeal fee. For example, after two years of retirement, 78% of former NFL players are

otherwise would have received under the actuary's calculation. As a result of the Armstrong Objectors' efforts, these anticipated denials will be appealed and the awards paid, adding additional value to Class Members of up to \$7.65 million.⁷

D. The Armstrong Objectors' efforts also resulted in the Collateral Time Benefit.

Article VI of the Final Settlement (Doc. #6481-1) provides monetary awards for the Qualifying Diagnoses defined in § 6.3(a). Pursuant to § 6.3(b), *after* the Effective Date of the Final Settlement, Qualifying Diagnoses (other than Death with CTE) may only be made by a Qualified MAF Physician or Qualified BAP Provider approved by Class Counsel and the NFL. *See* §§ 2.1(www) (referencing § 6.5(a)) for the Qualified MAF Physician selection process; 2.1(vvv) (referencing § 5.7(a)) for the Qualified BAP Provider selection process.

Conversely, pursuant to § 6.3(c), between the preliminary approval date and the Effective Date, Qualifying Diagnoses (other than Death with CTE) may be made by a board certified neurologist, neurosurgeon, or other neuro-specialist physician chosen by a Class Member.

This is litigation wherein the Class Members and the NFL are adversaries. It arose out of Class Members' distrust of the NFL's billionaire owners who allegedly put profits before safety

under financial stress. Pablo S. Torre, *How (and Why) Athletes Go Broke*, Sports Illustrated (Mar. 23, 2009), http://www.si.com/vault/2009/03/23/105789480/how-and-why-athletes-go-broke (last visited Feb. 18, 2017). And, in fact, 15.7% of players file for bankruptcy after twelve years of retirement. *See* Kyle Carlson et al., *Bankruptcy Rates among NFL Players with Short-Lived Income Spikes*, 105 American Economic Review 5 (April 2, 2015). Indeed, the NFL Player Care Foundation has made charitable grants to 956 former players (5% of the Class) since 2007. *See* http://www.nflplayercare.com (last visited Feb. 18, 2017).

- ⁷ Class Counsel's economic expert estimates there will be 3600 monetary awards totaling \$950 million over the life of the Final Settlement (Doc. #6167 at 3), or an average of \$263,889 per award. The value of 29 additional awards totals over \$7.65 million.
- Pursuant to Section 2.1(jj) of the Final Settlement, its Effective Date was January 7, 2017, twenty-five days after the date the Supreme Court denied the Armstrong Objectors' petition for *writ of certiorari*. Absent the Armstrong Objectors' appeals, its Effective Date would have been May 23, 2015 (*i.e.*, thirty days after the Final Settlement was finally approved by the Court on April 22, 2015).

and defrauded Class Members out of their health and well-being. Just because there is a settlement, however, does not mean that Class Members' distrust of the NFL no longer exists. Their mistrust of the NFL is deep-seated and long-standing. It will carry over to the administration of the Final Settlement—especially pertaining to making the Qualifying Diagnoses foundational to Class Members' monetary awards. Whether rightly or wrongly, Class Members fervently believe that they will stand a better chance of receiving a Qualified Diagnosis from a physician they choose, rather than one thrust upon them by Class Counsel and the NFL. If for no other reason, there is value in the additional peace of mind they will have for themselves and their families that they did everything possible to enhance their chances of receiving a monetary award under the Final Settlement.

Although the intent of the Armstrong Objectors' appeals was not to extend the time period in which a Class Member could secure a Qualified Diagnosis from a board certified neurospecialist physician of his choosing, the fact of the matter is that this collateral benefit was conferred upon Class Members by the Armstrong Objectors' efforts. Appealing the Final Settlement all the way to the Supreme Court provided Class Members with over nineteen months of additional time to be examined by a board certified neuro-specialist physician of their own choosing (*i.e.*, from May 23, 2015, the Effective Date of the Final Settlement with no appeals, through January 7, 2017, the actual Effective Date taking into account the appeals).

In light of the inherent desire to choose one's own doctor and the shortage of board certified neuro-specialist physicians in the United States,⁹ the additional nineteen months to locate one,

⁹ For example, as of December 19, 2012, there were "approximately 3689 practicing board certified neurosurgeons for over 5700 hospitals in the U.S., serving a population of more than 311 million people"—or a ratio of 1 board certified neurosurgeon for every 84,305 people in the United States. *See Ensuring an Adequate Neurosurgical Workforce for the 21st Century*, at 2 https://www.cns.org/sites/default/files/legislative/NeurosurgeryIOMGMEPaper121912.pdf (last visited Feb. 18, 2017). The situation was not predicted to improve—especially since the current

secure an appointment, and have the examination constitutes a Collateral Time Benefit with real value—on many levels—to Class Members who otherwise would not have had time to do so. Absent the Collateral Time Benefit, there would not have been enough time for even a fraction of the 19,000+ Class Members to complete their examinations in the ten month period between July 7, 2014 (the preliminarily approval date) and May 23, 2015 (the Effective Date of the Final Settlement absent the Armstrong Objectors' appeal to the Third Circuit).

That said, the Armstrong Objectors know of no accurate way to quantify the value of the nineteen month Collateral Time Benefit and concurrent peace of mind to Class Members. They defer to the Court to appropriately consider these benefits when determining their fee award.

THE ARMSTRONG OBJECTORS' REQUESTED FEE AWARD

Like Counsel for the NFL and Class Counsel, the Armstrong Objectors' Counsel are experienced, creative, hardworking lawyers with national practices who are battle tested in class action litigation. Unlike other objectors' counsel, the Armstrong Objectors' Counsel ran a lean attorney team, stayed focused, played by the procedural rules, did not make unnecessary filings, and advanced the Armstrong Objectors' objections in an efficient and effective manner. Their vigorous advocacy "sharpen[ed] the issues and debate on the fairness of the settlement." *In re*

population of the United States is now over 324 million people. *Id.* ("As the population ages and more of our citizens face debilitating and life threatening neurological problems such as stroke, degenerative spine disease, and Parkinson's and other movement disorders, this supply-demand mismatch will become even more acute."). *See also* the U.S. Population Clock, https://www.census.gov/popclock/ (last visited Feb. 18, 2017).

Similarly, as of April 2016, there were only 14,268 actively practicing board certified neurologists in the United States—or a ratio of 1 board certified neurologist for every 22,708 people in the United States (*i.e.*, 324 million people divided by 14,268 board certified neurologists) *See* American Board of Psychiatry and Neurology, Inc. Facts and Statistics (APBN Total and Active Certifications), https://www.abpn.com/wp-content/uploads/2016/08/ABPN-Total-and-Active-Certifications.pdf (last visited Feb. 18, 2017).

Domestic Air Transp. Antitrust Litig., 148 F.R.D. 297, 358 (N.D. Ga. 1993) (awarding objector fees). Their efforts secured additional benefits to Class Members fairly valued up to \$63.65 million.

Armstrong Objectors' Counsel spent 1179.75 hours and advanced over \$70,000 of out-of-pocket expenses working on this matter on behalf of Class Members:

Law Firm	Total Hours	Fees	Expenses	Supporting Declaration Exhibit
The Coffman Law Firm	411.50	\$233,630.00	\$32,031.40	A
Weller, Green, Toups & Terrell	328.00	\$236,600.00	\$38,346.83	В
The Webster Law Firm	262.50	\$77,460.00	-	С
The Warner Law Firm	177.75	\$52,009.80	-	D
Total	1179.75	\$599,699.80	\$70,378.23	-

That said, the Armstrong Objectors seek only an award of their straight time hourly attorneys' fees (\$599,700) with no multiplier and no expense reimbursement.

The Armstrong Objectors' requested fee award is .049% of the overall \$1.227 billion value of the Final Settlement (assuming a Final Settlement value of \$1.163 billion per Class Counsel (e.g., Doc. #7151-1 at 34) plus the \$63.65 million increase secured by the Armstrong Objectors' efforts). The Armstrong Objectors' requested fee award is .942% of the \$63.65 million increase in the value of the Final Settlement, and .533% of the \$112.5 million of attorneys' fees to be paid by the NFL. Should the Court grant the Armstrong Objectors' fee request, Class Counsel will still receive over \$111.9 million in attorneys' fees plus the 5% set-aside (Doc. #6481-1 § 21.1) in a case in which there was no discovery, no contested class certification hearing, no summary judgment practice, and no trial.

The Armstrong Objectors' requested fee award will not diminish Class Members' financial benefits under the Final Settlement, which requires the NFL to pay attorneys' fees and expenses, subject to approval by the Court, over and above payments to Class Members. *Id.* (Doc. #6481-

1) § 21.1. The NFL has agreed not to oppose any fee request exceeding \$112.5 million (*id.* § 21.20, which Class Counsel has requested. Doc. #7151-1. Awarding the full \$112.5 million to Class Counsel without compensating Armstrong Objectors' Counsel for significantly improving the Final Settlement and delivering the Collateral Time Benefit, however, would be inequitable.

ARGUMENTS AND AUTHORITIES

A. The Armstrong Objectors' productive work merits the requested fee award.

Objectors who confer a material benefit on a class are entitled to a fee award. *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 744 (3d Cir. 2001); *see also* 7B CHARLES A. WRIGHT & ARTHUR MILLER, FEDERAL PRACTICE & PROCEDURE § 1803 n.6 (3d ed. 2004) (collecting cases awarding objector fees). Objectors "serve as a highly useful vehicle for class members, for the court and for the public generally" to bring adversarial scrutiny to proposed class action settlements. *Great Neck Capital Appreciation Inv. Partnership, LP v. Pricewaterhouse Coopers, LLP*, 212 F.R.D. 400, 412 (E.D. Wis. 2002). "Therefore, a lawyer for an objector who raises pertinent questions about the terms or effects, *intended or unintended*, of a proposed settlement renders an important service." *Id.* at 413 (emphasis added).

Objectors play a valuable role given the awkward dynamic inherent in class action settlements; to wit, a defendant is motivated to settle as cheaply as possible and, as a practical matter, does not care whether its settlement payment primarily benefits the class or class counsel so long as it gets a release; class counsel may have an opportunity to maximize fees at the expense of maximum relief to the class; and the court, of course, must scrutinize the proposed settlement acting in its role as a fiduciary to the class. *See In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 784 (3d Cir. 1995) ("*GM Trucks*").

This necessarily imposes an extraordinary burden on the court. As Judge Posner explained,

"American judges are accustomed to presiding over adversary proceedings. They expect the clash of the adversaries to generate the information that the judge needs to decide the case." *Eubank v. Pella Corp.*, 753 F.3d 718, 720 (7th Cir. 2014) (reversing approval of class action settlement based on objectors' arguments). Thus, vigorous, articulate objections by competent counsel acting for individual class members allow a judge to overcome a "disadvantage in evaluating the fairness of the settlement to the class." *Id*.

The Armstrong Objectors performed a valuable service to the Court and Class Members in three ways—*first*, by turning this matter into a true adversarial process, *second*, by substantially enhancing the Final Settlement, and *third*, by delivering the Collateral Time Benefit.

1. The direct benefit derived from the Armstrong Objectors' challenges to the Revised Settlement and Final Settlement supports the requested fee award.

"If objectors' appearance sharpens the issues and debate on the fairness of the settlement, their performance of the role of devil's advocate warrants a fee award." *In re Domestic Air Transp. Antitrust Litig.*, 148 F.R.D. at 358; *In re Ikon Office Sols., Inc., Sec. Litig.*, 194 F.R.D. 166, 197 (E.D. Pa. 2000) (awarding objector fees for "sharpen[ing] debate" in proceeding). Courts recognize that even where their efforts do not directly increase the size of the settlement fund, "objectors add value to the class-action settlement process" by "transforming the fairness hearing into a truly adversarial proceeding" and "supplying the Court with both precedent and argument to gauge the reasonableness of the settlement." *In re Cardinal Health, Inc. Sec. Litig.*, 550 F. Supp. 2d 751, 753 (S.D. Ohio 2008). Thus, even objections that are "ultimately overruled" may merit a fee award if "the presence of an objector represented by competent counsel transformed the settlement into a truly adversary proceeding." *Frankenstein v. McCrory Corp.*, 425 F. Supp. 762, 767 (S.D.N.Y. 1977).

Likewise, in *Howes v. Atkins*, 668 F. Supp. 1021 (E.D. Ky. 1987), objectors challenged a

settlement where the parties settled for an amount that was low relative to the optimistic initial views of plaintiffs' counsel. *Id.* at 1027. Objectors "made a vigorous attack on the settlement and pursued extensive discovery," but were unable to find "any reason for the modest settlement except that the evidence had not developed as plaintiffs' counsel had first anticipated." *Id.* The district court, nevertheless, awarded objectors' counsel 10% of the settlement fund, holding that "even though the settlement was not improved," objectors' counsel were entitled to fees for "ably perform[ing] the role of devil's advocate" and "ma[king] the court much more comfortable in approving the settlement." *Id.*

Similarly, here, and as set forth above, the Armstrong Objectors' Counsel's advocacy fleshed out complex issues important to a determination of the fairness of both the Revised Settlement and Final Settlement, as well as delivered the Collateral Time Benefit. The Armstrong Objectors took the lead in addressing the key fairness question in this case: whether the settlement's CTE compromise—providing compensation only to the family members of Class Members who died with CTE by a certain date—was "fair, reasonable, and adequate" under Rule 23(a)(4); (e). The CTE question was highly complex and hotly contested—particularly given the prominence Class Counsel gave CTE in their early pleadings and statements about the case. Approving the settlement without a full airing of the CTE issue would have been a grave injustice.

The Armstrong Objectors Counsel addressed this and other essential issues through (i) their Objection, Amended Objection, and Supplemental Objection, (ii) extensive briefing and argument to the Third Circuit, including organizing appellants' counsels' presentation of the argument, and (iii) extensive briefing to the Supreme Court in support of their petition for writ of *certiorari*. The Armstrong Objectors also significantly contributed to the record—a particularly important service here since the Final Settlement was reached without formal discovery.

2. The direct benefits of the up to \$63.65 million increase in the value of the Final Settlement and the Collateral Time Benefit support the requested fee award.

Because "objectors have a valuable and important role to perform in preventing . . . unfavorable settlements, . . . they are entitled to an allowance as compensation for attorneys' fees and expenses where . . . the settlement was improved as a result of their efforts." In re Cendant Corp. PRIDES Litig., 243 F.3d at 743 (quoting White, 500 F.2d at 828) (emphasis added) (vacating and remanding order denying objector fee request).

Here, there can be no doubt that the Final Settlement was improved by the Armstrong Objectors' Counsel's efforts. Even the Third Circuit recognized the changes made to the Revised Settlement that resulted in the Final Settlement "benefit[ed] class members." *In re Nat'l Football League Players Concussion Injury Litig.*, 821 F.3d at 423. Indeed, the changes made to the BAP, Death with CTE benefits, and the appeal fee provisions added up to \$63.65 million of value to the Final Settlement. And that's not counting the Collateral Time Benefit.

The Armstrong Objectors were the leaders here. Instead of simply identifying the flaws in the Revised Settlement, they offered concrete ways to improve it. In fact, as set forth above, the improvements in the Final Settlement with the greatest value to Class Members had their roots in the Armstrong Objectors' suggestions.

- 3. The requested fee award is reasonable.
 - a. The requested fee award is a reasonable percentage of the benefits conferred.

When the efforts of counsel result in a large recovery for the class, under common-fund principles, an award of a percentage of the benefit conferred is appropriate. *See McDonough v. Toys "R" Us, Inc.*, 80 F. Supp. 3d 626, 662 (E.D. Pa. 2015). The "percentage-of-recovery method is designed to reward attorneys for" "adding value to the class settlement." *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 273 F. Supp. 2d 563, 566 (D.N.J. 2003).

The \$599,700 straight time hourly fee award requested sought by the Armstrong Objectors represents .049% of the total \$1.227 billion worth of financial benefits Class Members will receive through the vigorously litigated settlement. And this does not include the Collateral Time Benefit. The requested fee award also is just .942% of the estimated maximum \$63.65 million increase in the value of the Final Settlement. Ocurts in this Circuit have approved similar awards (as a percentage of the improvement achieved by objectors) in other cases. *See*, *e.g.*, *Dewey*, 909 F. Supp.2d at 397 (objectors' counsel awarded "13.4% of the benefit conferred," which was "within the range of acceptable percentages-of-recovery."); *Lan v. Ludrof*, No. 1:06-cv-114, 2008 WL 763763, at *30 (W.D. Pa. 2008) (awarding objector's counsel 25% of the increased settlement value).

b. The Gunter/Prudential factors support the requested fee award.

The reasonableness of the Armstrong Objectors' requested fee award is further confirmed by analyzing it through the lens of the *Gunter/Prudential* factors: (1) "the size of the fund created and the number of beneficiaries," (2) "the presence or absence of substantial objections by members of the class to the settlement terms and/or fees requested by counsel," (3) "the skill and efficiency of the attorneys involved," (4) "the complexity and duration of the litigation," (5) "the risk of nonpayment," (6) "the amount of time devoted to the case by plaintiffs' counsel," (7) "the awards in similar cases," (8) "the value of benefits attributable to the efforts of class counsel relative to the efforts of other groups, such as government agencies conducting investigations," (9) "the percentage fee that would have been negotiated had the case been subject to a private contingent fee arrangement at the time counsel was retained," and (10) "any innovative terms of

This, of course, is only the financial benefit generated by the Armstrong Objectors' efforts. It does not account for the Collateral Time Benefit and the benefit of the adversarial challenge to the overall fairness of the Revised Settlement and Final Settlement.

settlement." See In re Diet Drugs Prods. Liab. Litig., 582 F.3d 524, 541 (3d Cir. 2009); In re Prudential Ins. Co. Am. Sales Practices Litig. Agent Actions, 148 F.3d 283, 336 (3d Cir. 1998).

These *Gunter/Prudential* factors are used to evaluate fee requests by both plaintiffs' counsel and objectors' counsel. *See McDonough*, 80 F. Supp. 3d at 660. The applicable factors all weigh in favor of the requested fee award.¹¹

i. The size of the fund created by the Armstrong Objectors' Counsel's efforts supports the requested fee award.

The \$63.65 million increase here would be a large recovery in its own right. Indeed, it dwarfs the entire \$35.5 million settlement in *McDonough*. *Id.*, 80 F. Supp.3d at 651. Courts routinely award class counsel large percentages as attorneys' fees in cases involving settlements in the neighborhood of \$100 million. *See, e.g., In re Ikon Office Sols., Inc.*, 194 F.R.D. at 196-97 (awarding 30% fee in case involving \$111 million settlement). The magnitude of the additional value conferred by the Armstrong Objectors' efforts—more than an 8.8% increase over the \$760-million valuation of the Revised Settlement—supports the requested fee award. And that does not count the value of the Collateral Time Benefit and enhancing the adversarial process.

ii. The number of beneficiaries supports the requested fee award.

The Armstrong Objectors' efforts benefited all Class Members. Any eligible Class Member may now receive benefits from the unlimited BAP Fund. Any Class Member may qualify for a waiver of the appeal fee if he demonstrates financial hardship. The estates of all Class Members who died between the preliminary approval date and the final approval date benefited from the expanded eligibility period for Death with CTE benefits. And all Class Members desiring to use the board certified neuro-specialist physician of their choosing benefited from the nineteen

The *Gunter/Prudential* factor pertaining to the number of objections is inapplicable here. Courts have construed this factor to reference only the number of objections to class counsel's fee petition, which is unknown at this time. *See McDonough*, 80 F. Supp.3d at 660.

month Collateral Time Benefit. The number of Class Members benefiting from the Armstrong Objectors' efforts supports the requested fee award.

iii. The value of benefits attributable to the Armstrong Objectors' Counsel's efforts relative to the efforts of other objectors supports the requested fee award

The Armstrong Objectors were the driving force behind improvements to the Revised Settlement. The Revised Settlement was the best deal Class Counsel were able to extract from the NFL. But as a result of the intense pressure created by the Armstrong Objectors—and this Court's scrupulous efforts to "play[] the important role of protector of the absentees' interests, in a sort of fiduciary capacity" (*GM Trucks*, 55 F.3d at 785)—the Revised Settlement was enhanced to become the Final Settlement.

The Armstrong Objectors were the first to raise the key issues underlying the Final Settlement's improvements—uncapping the BAP Fund, expanding the CTE with Death benefits eligibility period, and eliminating the appeal fee on a showing financial hardship—as well as deliver the Collateral Time Benefit. Other objectors repeated the Armstrong Objectors' arguments or adopted them wholesale. The value of the benefits attributable to the Armstrong Objectors' efforts relative to the efforts of other objectors supports the requested fee award.

iv. The complexity and duration of the litigation support the requested fee award.

It is indisputable that this litigation, the Revised Settlement, and the Final Settlement involved complex legal issues—in particular, Rule 23(a)(4) adequacy of representation pertaining to the Death with CTE benefits. *See, e.g.*, the above discussion of the lead role on this issue taken at the Third Circuit by Armstrong Objectors' Counsel, Deepak Gupta. Nor did the Armstrong Objectors give up after the Third Circuit issued its opinion, taking their case to the Supreme Court. The complexity and duration of the litigation—and the Armstrong Objectors'

key role in it—support the requested fee award.

v. The Armstrong Objectors' Counsel's skill, efficiency, and amount of time devoted to the case supports the requested fee award.

The Armstrong Objectors' Counsel invested three years and over 1175 billable hours on this litigation working hard to improve—and improving—the Revised Settlement that became the Final Settlement. They litigated the issues with skill and efficiency. Their results speak volumes—additional value up to \$63.65 million was obtained for Class Members. The Armstrong Objectors' Counsel also delivered the Collateral Time Benefit and enhanced the adversarial process. Their skill, efficiency, and amount of time devoted to the case supports the requested fee award.

vi. The risk of non-payment supports the requested fee award.

The Armstrong Objectors' Counsel's extensive time investment is particularly significant given that counsel accepted the case on a 100% contingency fee basis, advancing all out-of-pocket expenses on behalf of their clients. The risk of non-payment was high, and, indeed, the Armstrong Objectors' Counsel do not seek reimbursement of their litigation expenses. Had the Armstrong Objectors been unsuccessful in improving the Revised Settlement, their Counsel might not have received any compensation. *See, e.g., McDonough*, 80 F. Supp.3d at 26. But they were. And they delivered the Collateral Time Benefit, too. The Armstrong Objectors' Counsel's risk of non-payment supports the requested fee award.

vii. Fee awards in similar cases support the requested fee award.

Although the Court has recognized that fee awards for objectors are infrequent (*McDonough*, 80 F. Supp.3d at 661), courts have awarded attorneys' fees to objectors' counsel equal to 13-25% of the increased settlement value they obtained. *See, e.g., Dewey*, 909 F. Supp.2d at 397 (awarding 13.4% of the increased settlement value); *Lan*, 2008 WL 763763, at *28 (awarding

25% of the increased settlement value). Here, the Armstrong Objectors' straight time hourly rate fee request is only .942% of the \$63.65 million increased settlement value (not including the Collateral Time Benefit) they obtained for Class Members. Fee awards in similar cases, coupled with the Armstrong Objectors hard—and fruitful—work improving the Revised Settlement and testing its fairness, support the requested fee award.

viii. The percentage fee that would have been negotiated in a private contingent fee arrangement supports the requested fee award.

The Armstrong Objectors' straight time hourly rate fee request is only .942% of the \$63.65 million increased settlement value (not including the Collateral Time Benefit) they obtained for Class Members. This amount, on a percentage basis, is far less than contingency fees of 30-40% of a total recovery that are "routinely negotiate[d]" in tort cases like this one. *See, e.g., In re Avandia Mktg., Sales Practices & Prods. Liab. Litig.*, No. 07-MD-01871, 2012 WL 6923367, at *8 (E.D. Pa. Oct. 19, 2012) (quoting *In re Ikon Office Sols., Inc., Sec. Litig.*, 194 F.R.D. at 194); *Kirchoff v. Flynn*, 786 F.2d 320, 323 (7th Cir. 1986) ("40% is the customary fee in tort litigation"); *In re Shell Oil Refinery*, 155 F.R.D. 552, 571 (E.D. La. 1993) ("customary contingency fee" in personal injury case "is between 33½% and 40%").

The requested fee award, on a percentage basis, also is significantly lower than routine percentage fees in typical contingent fee cases. The requested fee award, on a percentage basis, also is much less than what some counsel representing individual players in this action have negotiated with their clients. For example, counsel for the Estate of Kevin Turner negotiated a contingency fee of up to 45% (Doc. #7029 ¶ 6), which is more than the \$599,700 fee award, on a percentage basis, requested by the Armstrong Objectors. This *Gunter/Prudential* factor supports the requested fee award.

ix. The innovative terms of the settlement improvements secured by the Armstrong Objectors' Counsel support the requested fee award.

The improvements to the Revised Settlement secured by the Armstrong Objectors are innovative. They do not focus on adding a fixed amount of money to the settlement, but rather, ensure that all Class Members receive a fair recovery for their injuries. For example, opening up the BAP Fund ensures that all eligible Class Members will receive the benefits of a baseline examination; to wit, securing an early diagnosis of any issues caused by their injuries and establishing a treatment plan that best addresses the issues. Extending the Death with CTE benefits eligibility period and opening up the appeal process will result in even more Class Members (and their families) receiving a fair recovery. And delivering the Collateral Time Benefit will further ensure each Class Member's recovery (and concurrent peace of mind) by allowing him to use a board certified neuro-specialist physician of his choice, rather than one assigned by the NFL and Class Counsel.

The Armstrong Objectors' suggested innovative improvements incorporated into the Final Settlement, as well as the Collateral Time Benefit, support the requested fee award.

Where the *Gunter/Prudential* factors weigh heavily in favor of a fee award—as they do here—courts in this circuit regularly award attorneys' fees equal to 15-33% of the amount of the total class benefit. *See, e.g., In re Ins. Brokerage Antitrust Litig.*, 297 F.R.D. 136, 155 (D.N.J. 2013) (collecting cases); *In re Linerboard Antitrust Litig.*, No. 98-5055, 2004 WL 1221350, at *14 (E.D. Pa. June 2, 2004) (noting Federal Judicial Center study finding median fee award to be 27-30% and approving 30% fee award after applying *Gunter* factors).

An award of the Armstrong Objectors' Counsel's straight time hourly fees, which, on a percentage basis, are approximately .942% of the up to \$63.65 million of additional benefits

conferred on Class Members (excluding the Collateral Time Benefit) are below the lower end of the acceptable fee range. Given the magnitude of the additional Class Member benefits secured by the Armstrong Objectors, their Counsel's requested fee award is more than reasonable.

B. The requested fee award should be paid from the Attorneys' Fees Qualified Settlement Fund.

The Armstrong Objectors' requested fee award should be paid from the \$112.5 million the NFL is required to contribute to the Attorneys' Fees Qualified Settlement Fund, or, alternatively, paid by the NFL and/or Class Counsel. It is well within this Court's discretion to require objectors' fees to be paid from Class Counsel's award or by the defendant to "avoid dilution of the settlement fund." See In re Ikon Office Sols., Inc., Secs. Litig., 194 F.R.D. at 197; Great Neck Capital Appreciation Inv. P'ship, L.P., 212 F.R.D. at 417.

WHEREFORE, the Armstrong Objectors respectfully request the Court to award them (i) attorneys' fees of \$599,700, and (ii) such other and further relief to which they are justly entitled.

Date: March 1, 2017

Respectfully submitted,

/s/ Richard L. Coffman

Richard L. Coffman

THE COFFMAN LAW FIRM

505 Orleans, Fifth Floor

Beaumont, Texas 77701

Telephone: (409) 833-7700

Facsimile: (866) 835-8250

Email: rcoffman@coffmanlawfirm.com

Mitchell A. Toups

WELLER, GREEN, TOUPS & TERRELL, LLP

2615 Calder Ave., Suite 400

Beaumont, TX 77702

Telephone: (409) 838-0101

Facsimile: (409) 838-6780

Email: matoups@wgttlaw.com

Jason C. Webster THE WEBSTER LAW FIRM 6200 Savoy, Suite 150 Houston, TX 77036

Telephone: (713)581-3900 Facsimile: (713) 581-3907

Email: jwebster@thewebsterlawfirm.com

Mike Warner
THE WARNER LAW FIRM
101 Southeast 11th Suite 301
Amarillo, TX 79101
Telephone: (806) 372-2595

Email: mike@thewarnerlawfirm.com

COUNSEL FOR THE ARMSTRONG OBJECTORS

CERTIFICATE OF SERVICE

I certify that a true copy of the Armstrong Objectors' Memorandum of Law in Support of their Petition for an Award of Attorneys' Fees was served on all counsel of record, via the Court's ECF system, on March 1, 2017.

/s/ Richard L. Coffman Richard L. Coffman

COUNSEL FOR THE ARMSTRONG OBJECTORS

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL	§	
LEAGUE PLAYERS' CONCUSSION	§	
LITIGATION	§	
	§	No. 12-md-2323 (AB)
	§	
KEVIN TURNER & SHAWN WOODEN	§ §	MDL No. 2323
on behalf of themselves and others similarly	§	
situated	§	Civ. Action No. 14-00029-AB
	§	
v.	§	
	§	
National Football League and	§	
NFL Properties LLC,	§	
successor-in-interest to NFL Properties, Inc.		
	§ §	
	§	
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THIS DOCUMENT RELATES TO:	Š	
ALL ACTIONS	§	

DECLARATION OF RICHARD L. COFFMAN IN SUPPORT OF THE ARMSTRONG OBJECTORS' PETITION FOR AWARD OF ATTORNEYS' FEES

Pursuant to 28 U.S.C. § 1746, I, Richard L. Coffman, declare as follows:

1. I am an attorney in good standing licensed to practice law in the State of Texas. I am also admitted to practice in the United States District Courts for the Eastern, Western, Northern, and Southern Districts of Texas, the Central and Southern Districts of Illinois, the Eastern District of Michigan, the United States Court of Appeals for the First, Third, Fifth, Sixth, Seventh, and Ninth Circuits, the United States Court of Federal Claims, and the United States Supreme Court. I also have been, and am, admitted *pro hac vice* in various other state and federal courts throughout the United States.

- 2. I am a shareholder in, and President of, the Coffman Law Firm in Beaumont, Texas. I am also a Certified Public Accountant. I have practiced law for over twenty-seven years. I am AV peer review rated by the Martindale-Hubbell Law Directory, a Texas Super Lawyer, and rated Superb by Avvo. For my entire law career, my practice has focused on business cases, consumer cases, complex commercial litigation, class actions, and mass actions in state and federal courts throughout the United States. For more information about the Coffman Law Firm and my law practice, please visit my Firm website, www.coffmanlawfirm.com.
- 3. I am Co-Counsel for the group of Objectors known as the "Armstrong Objectors" who are identified in their Petition for an Award of Attorneys' Fees and Supporting Memorandum of Law. I have personal knowledge of the statements in this Declaration and, if called as a witness, I could, and would, testify competently them. I make this Declaration in support of the Armstrong Objectors' Petition for an Award of Attorneys' Fees and Supporting Memorandum of Law.
- 4. As Co-Counsel for the Armstrong Objectors in this matter, I, assisted by my staff where appropriate, (i) reviewed the June 25, 2014 Class Action Settlement Agreement that was subsequently amended to become the Final Settlement approved by the Court, (ii) met with and counseled clients and other Class Members over the phone regarding the Final Settlement, their concerns about it, and objections to it, (iii) researched and drafted the Armstrong Objectors' Objection, Amended Objection, and Supplemental Objection to the Final Settlement, (iv) reviewed the Court's order and opinion giving final approval to the Final Settlement, (v) conferred and communicated with the Armstrong Objectors, other Class Members, and cocounsel about the Court's approval of the Final Settlement and appealing the approval order to the Third Circuit Court of Appeals, (vi) worked with Co-Counsel to review and edit the Armstrong Objectors' appellate briefs filed in the Third Circuit, (vii) attended the November 19,

2015 oral argument in the Third Circuit and subsequently advised the Armstrong Objectors and other Class Members about it, (viii) reviewed the Third Circuit' opinion, and conferred and communicated with the Armstrong Objectors and co-counsel about appealing the decision to the United States Supreme Court, (ix) worked with Co-Counsel to review and edit the Armstrong Objectors' petition for writ of *certiorari* filed in the Supreme Court, (x) advised the Armstrong Objectors and other Class Members about its denial, and (xi) counseled the Armstrong Objectors and other Class Members about their post-denial options and potential benefits under the Final Settlement once it became effective on January 7, 2017.

- 5. The above-described work performed by my Firm (working with Co-Counsel) on behalf of the Armstrong Objectors benefitted all Class Members by (i) transforming the settlement process into a true adversarial proceeding, (ii) enhancing the Final Settlement by opening up the Baseline Assessment Program for all eligible Class Members, expanding the eligibility period for Death with CTE benefits, and securing a waiver of the \$1000 appeal fee for good cause, and (iii) in the process, delivering the Collateral Time Benefit—which provided Class Members with over nineteen months of additional time to be examined by their own board certified neuro-specialist physician for purposes of securing a Qualified Diagnosis and receiving a monetary award under the Final Settlement. As a result of the above-described work performed by my Firm (working with Co-Counsel), the Final Settlement was significantly enhanced for the benefit of all Class Members.
- 6. My Firm spent three years working on behalf of the Armstrong Objectors to enhance the Final Settlement for the benefit of all Class Members. In doing so, my Firm (i) spent 411.50 hours, yielding a lodestar of \$\$233,630 of attorneys' fees at my Firm's current hourly billing rates for this type of litigation, and (ii) advanced \$32,031.40 of out-of-pocket expenses. A

Lodestar Summary of the time spent by Firm's attorneys and paralegals working on this matter

and their billing rates is attached as Exhibit A.

7. Throughout the litigation, my staff and I maintained contemporaneous daily time records

of the time and expenses incurred. My Firm's lodestar is based solely upon my Firm's billing

rates, which do not include charges for expense items. Expense items are billed separately and

are not duplicated in my Firm's billing rates.

8. My Firm represented the Armstrong Objectors on a 100% contingency basis, assuming

full risk of non-payment. That said, I only seek an award of my Firm's straight time hourly fees

(\$233,630) with no multiplier. The time incurred to prepare the Armstrong Objectors' Petition

for an Award of Attorneys' Fees, Supporting Memorandum of Law, and this Declaration is not

included in my requested fee award. I do not seek reimbursement of the out-of-pocket expenses

advanced by my Firm representing the Armstrong Objectors for the benefit of all Class

Members.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 1, 2017, at Beaumont, Texas.

Richard L. Coffmen

EXHIBIT A

IN RE: NFL PLAYERS' CONCUSSION INJURY LITIGATION No. 12-md-2323-AB

THE COFFMAN LAW FIRM LODESTAR SUMMARY

January 2014-January 2017

NAME	HOURS	HOURLY RATE	AMOUNT
PARTNER			
Richard L. Coffman	308.75	\$700	\$216,125.00
ASSOCIATES			
Doneane Beckom	46.50	\$195	\$9,067.50
PARALEGALS			
Alexis Pace	32.25	\$150	\$4,837.50
Heather McAdams	24.00	\$150	\$3,600.00
Totals	411.50	-	\$233,630.00

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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IN RE: NATIONAL FOOTBALL	8	
LEAGUE PLAYERS' CONCUSSION	8	
LITIGATION	8	
LITIGATION	8	N. 12 J 2222 (AD)
	§	No. 12-md-2323 (AB)
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KEVIN TURNER & SHAWN WOODEN	§	MDL No. 2323
on behalf of themselves and others similarly	§	
situated	§	Civ. Action No. 14-00029-AB
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NFL Properties LLC,	8	
successor-in-interest to NFL Properties, Inc.	8	
successor-in-interest to IVIL 1 roperties, inc.	8	
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THIS DOCUMENT RELATES TO:	8	
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ALL ACTIONS	§	

DECLARATION OF MITCHELL A. TOUPS IN SUPPORT OF THE ARMSTRONG OBJECTORS' PETITION FOR AWARD OF ATTORNEYS' FEES

Pursuant to 28 U.S.C. § 1746, I, Mitchell A. Toups, declare as follows:

1. I am an attorney in good standing licensed to practice law in the State of Texas and the State of New York. I am also admitted to practice in the United States District Courts for the Eastern, Northern and Southern Districts of Texas, the Northern District of Illinois, the Eastern District of Wisconsin, the United States Court of Appeals for the Third, Fifth, Sixth, Seventh, Ninth and Eleventh Circuits, the United States Court of Federal Claims, and the United States Supreme Court. I also have been, and am, admitted *pro hac vice* in various other state and federal courts throughout the United States.

- 2. I am a partner in the law firm of Weller, Green, Toups & Terrell, L.L.P., in Beaumont, Texas. I have practiced law for over thirty-three years. I am AV peer review rated by the Martindale-Hubbell Law Directory. My practice has focused on business cases, consumer cases, complex commercial litigation, class actions, and mass actions in state and federal courts throughout the United States.
- 3. I am Co-Counsel for the group of the thirty-four Objectors known as the "Armstrong Objectors" who are identified in their Petition for an Award of Attorneys' Fees and Supporting Memorandum of Law. I have personal knowledge of the statements in this Declaration and, if called as a witness, I could, and would, testify competently them. I make this Declaration in support of the Armstrong Objectors' Petition for an Award of Attorneys' Fees and Supporting Memorandum of Law.
- 4. As Co-Counsel for the Armstrong Objectors in this matter, I, assisted by my staff where appropriate, (i) reviewed the June 25, 2014 Class Action Settlement Agreement that was subsequently amended to become the Final Settlement approved by the Court, (ii) met with and counseled clients and other Class Members over the phone and in person regarding the Final Settlement, their concerns about it, and objections to it, (iii) researched and drafted the Armstrong Objectors' Objection, Amended Objection, and Supplemental Objection to the Final Settlement, (iv) reviewed the Court's order and opinion giving final approval to the Final Settlement, (v) conferred and communicated with the Armstrong Objectors, other Class Members, and co-counsel about the Court's approval of the Final Settlement and appealing the approval order to the Third Circuit Court of Appeals, (vi) worked with Co-Counsel to review and edit the Armstrong Objectors' appellate briefs filed in the Third Circuit, (vii) subsequently advised the Armstrong Objectors and other Class Members about the November 19, 2015 oral argument in the Third

Circuit, (viii) reviewed the Third Circuit' opinion, and conferred and communicated with the Armstrong Objectors and co-counsel about appealing the decision to the United States Supreme Court, (ix) worked with Co-Counsel to review and edit the Armstrong Objectors' petition for writ of *certiorari* filed in the Supreme Court, (x) advised the Armstrong Objectors and other Class Members about its denial, and (xi) counseled the Armstrong Objectors and other Class Members about their post-denial options and potential benefits under the Final Settlement once it became effective on January 7, 2017.

- 5. The above-described work performed by my Firm (working with Co-Counsel) on behalf of the Armstrong Objectors benefitted all Class Members by (i) transforming the settlement process into a true adversarial proceeding, (ii) enhancing the Final Settlement by opening up the Baseline Assessment Program for all eligible Class Members, expanding the eligibility period for Death with CTE benefits, and securing a waiver of the \$1000 appeal fee for good cause, and (iii) in the process, delivering the Collateral Time Benefit—which provided Class Members with over nineteen months of additional time to be examined by their own board certified neuro-specialist physician for purposes of securing a Qualified Diagnosis and receiving a monetary award under the Final Settlement. As a result of the above-described work performed by my Firm (working with Co-Counsel), the Final Settlement was significantly enhanced for the benefit of all Class Members.
- 6. My Firm spent three years working on behalf of the Armstrong Objectors to enhance the Final Settlement for the benefit of all Class Members. In doing so, my Firm (i) spent 328.00 hours, yielding a lodestar of \$236,600.00 of attorneys' fees at my Firm's current hourly billing rates for this type of litigation, and (ii) advanced \$38,346.83 of out-of-pocket expenses. A

Lodestar Summary of the time spent by Firm's attorneys and paralegals working on this matter and their billing rates is attached as Exhibit A.

- 7. Throughout the litigation, my staff and I maintained contemporaneous daily time records of the time and expenses incurred. My Firm's lodestar is based solely upon my Firm's billing rates, which do not include charges for expense items. Expense items are billed separately and are not duplicated in my Firm's billing rates.
- 8. My Firm represented the Armstrong Objectors on a 100% contingency basis, assuming full risk of non-payment. That said, I only seek an award of my Firm's straight time hourly fees (\$236,600.00) with no multiplier. I also do not seek reimbursement of the out-of-pocket expenses advanced by my Firm representing the Armstrong Objectors for the benefit of all Class Members. Nor is the time incurred to prepare the Armstrong Objectors' Petition for an Award of Attorneys' Fees, Supporting Memorandum of Law, and this Declaration included in my requested fee award.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 24, 2017, at Beaumont, Texas.

Mitchell A. Toups

EXHIBIT A

IN RE: NFL PLAYERS' CONCUSSION INJURY LITIGATION No. 12-md-2323-AB

WELLER, GREEN, TOUPS & TERRELL, L.L.P. LODESTAR SUMMARY

January 2014-January 2017

NAME	HOURS	HOURLY RATE	AMOUNT
PARTNER			
Mitchell A. Toups	336.00	\$700.00	\$236,600.00
Totals	336.00	\$700.00	\$236,600.00

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL	8	
LEAGUE PLAYERS' CONCUSSION	8	
	8	
LITIGATION	8	
	§	No. 12-md-2323 (AB)
	§	
KEVIN TURNER & SHAWN WOODEN	§	MDL No. 2323
on behalf of themselves and others similarly	§	
situated	8	Civ. Action No. 14-00029-AB
Situateu	§	Civ. Action 110. 14-00027-AB
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v.	§	
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National Football League and	8	
NFL Properties LLC,	§	
successor-in-interest to NFL Properties, Inc.	§	
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THIS DOCUMENT RELATES TO:	8	
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ALL ACTIONS	§	

DECLARATION OF THE WEBSTER LAW FIRM IN SUPPORT OF OBJECTOR ARMSTRONG'S PETITION FOR AN AWARD OF ATTORNEY'S FEES

Jason C. Webster, declares as follows pursuant to 28 U.S. C. §1746:

1. I am the Owner of The Webster Law Firm. I was Counsel to 34 Objectors in what has been referred to as the "Armstrong Objection". I submit this declaration in support of Armstrong Objector's Award of Attorneys' Fees in connection with and for services rendered and expenses incurred for the common benefit of the Settlement Class in the above-captioned multidistrict litigation ("Action") from January, 2014, through December, 2016. I have personal knowledge of the matters set forth in this declaration and, if called upon, I could and would testify competently thereto.

- 2. Our firm's role and services were as settlement class objectors. I assisted Richard Coffman and Mitchell Toups, and their firms, to enhance the class settlement. My primary job was coordinating the objectors/clients, communicating with our clients, answering questions of our clients and explaining the process to our clients. I also helped review the objections and obtain input from our objectors/clients in order to properly determine all objections to the settlement by our 34 objectors/clients. Our work in objecting substantially enhanced the class settlement as shown in more detail in the brief and the Declaration of Coffman and Toups.
- 3. The schedule attached hereto as Exhibit "A" is a detailed summary indicating the amount of common benefit time spent by the attorneys and paralegals of my firm who were involved in, and billed fifty or more hours to this Action, and the lodestar calculation for these individuals based on my firm's current billing rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended in preparing this application for attorney's fees and expenses has been excluded.
- 4. The hourly rates for the attorneys and paralegals of my firm included in Exhibit "A" are the same as the regular rates charged for their services in other contingent matters and have been accepted by other federal courts in other class action cases prosecuted by my firm.
- 5. The total number of hours expended on the common benefit of this Action by my firm during the time period is 262.5 hours. The total lodestar for my firm for those hours is \$77,460 consisting of attorney and paralegal time.
- 6. My firm's lodestar figures are based solely upon my firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates. I am not requesting reimbursement of any expenses.

7. As detailed in Exhibit "A" hereto, my firm is seeking reimbursement of a total of \$77,460.00.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February I Fil

, 2017, at Houston, Texas.

Jason C. Webster, Esquire

EXHIBIT A

IN RE: NFL PLAYERS' CONCUSSION INJURY LITIGATION No. 12-md-2323-AB

THE WEBSTER LAW FIRM LODESTAR SUMMARY

January 2014-December 2016

NAME	HOURS	HOURLY RATE	AMOUNT
Jason C. Webster, Attorney	176.50	\$400.00	\$70,600.00
Denise Garcia, Paralegal	63.50	\$85.00	\$5,397.50
Christina Nicklas, Paralegal	22.50	\$65.00	\$1,462.50
Totals	262.5		\$77,460.00

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL	§	
LEAGUE PLAYERS' CONCUSSION	§	
LITIGATION	§	
	§ No. 12-md-2323 (AB)	
KEVIN TURNER & SHAWN WOODEN	§ MDL No. 2323	
on behalf of themselves and others similarly	§	
situated	§ Civ. Action No. 14-0002	9-AB
	§	
v.	§	
	§	
National Football League and	§	
NFL Properties LLC,	§	
successor-in-interest to NFL Properties, Inc.	§	
	§	
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THIS DOCUMENT RELATES TO:	8	
ALL ACTIONS	8	
ALL ACTIONS	8	

DECLARATION OF THE WARNER LAW FIRM IN SUPPORT OF OBJECTOR ARMSTRONG'S PETITION FOR AN AWARD OF ATTORNEY'S FEES

Mike Warner, declares as follows pursuant to 28 U.S. C. §1746:

1. I am the Owner of The Warner Law Firm ("Warner"). I was Counsel to 34 Objectors in what has been referred to as the "Armstrong Objection". I submit this declaration in support of Armstrong Objector's Award of Attorneys' Fees in connection with and for services rendered and expenses incurred for the common benefit of the Settlement Class in the above-captioned multidistrict litigation ("Action") from January, 2014, through December, 2016. I have personal knowledge of the matters set forth in this declaration and, if called upon, I could and would testify competently thereto.

- 2. Our firm's role and services were as settlement class objectors. I assisted Richard Coffman and Mitchell Toups, and their firms, to enhance the class settlement. My primary job was coordinating the objectors/clients, communicating with our clients, answering questions of our clients and explaining the process to our clients. I also helped review the objections and obtain input from our objectors/clients in order to properly determine all objections to the settlement by our 34 objectors/clients. Our work in objecting substantially enhanced the class settlement as shown in more detail in the brief and the Declaration of Coffman and Toups.
- 3. The schedule attached hereto as Exhibit "A" is a detailed summary indicating the amount of common benefit time spent by the attorneys and paralegals of my firm who were involved in, and billed fifty or more hours to this Action, and the lodestar calculation for these individuals based on my firm's current billing rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended in preparing this application for attorney's fees and expenses has been excluded.
- 4. The hourly rates for the attorneys and paralegals of my firm included in Exhibit "A" are the same as the regular rates charged for their services in other contingent matters and have been accepted by other federal courts in other class action cases prosecuted by my firm.
- 5. The total number of hours expended on the common benefit of this Action by my firm during the time period is 177.75 hours. The total lodestar for my firm for those hours is \$52,009.80 consisting of attorney and paralegal time.
- 6. My firm's lodestar figures are based solely upon my firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates. I am not requesting reimbursement of any expenses.

7. As detailed in Exhibit "A" hereto, my firm is seeking reimbursement of a total of \$52,009.80.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on tehrousey 26, 2017, at Amarillo, Texas.

Mike Warner, Esquire

EXHIBIT A

IN RE: NFL PLAYERS' CONCUSSION INJURY LITIGATION No. 12-md-2323-AB

THE WARNER LAW FIRM LODESTAR SUMMARY

January 2014-December 2016

NAME	HOURS	HOURLY RATE	AMOUNT
Mike Warner, Attorney	139.25	\$350.00	\$48,737.50
Kimberly Berner, Paralegal	38.50	\$85.00	\$3,272.30
Totals	177.75		\$52,009.80

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated.

Plaintiffs,

V.

National Football League and NFL Properties, LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB MDL No. 2323

Civil Action No. 2:14-cv-00029-AB

FANECA OBJECTORS' RESPONSE TO CO-LEAD CLASS COUNSEL'S MOTION FOR EXTENSION OF TIME

As the Court is aware, on January 11, 2017, the Faneca Objectors filed a Petition for an Award of Attorneys' Fees and Expenses in recognition of the \$102.5-million benefit that the Faneca Objectors' efforts brought to the class. *See* Dkt. No. 7070. On February 13, 2017, Co-Lead Class Counsel filed their fee petition. *See* Dkt. No. 7151. One week later, class member Cleo Miller, represented by attorney John J. Pentz, filed an objection to both fee petitions. *See* Dkt. No. 7161. Co-Lead Class Counsel now move for an extension of time to file a consolidated response to the Faneca Objectors' fee petition, the Miller objection, and several additional filings related to Co-Lead Class Counsel's petition for attorneys' fees. *See* Dkt. No. 7228.

The Faneca Objectors agree that coordinated briefing would serve the interests of judicial efficiency. Thus, the Faneca Objectors do not oppose Co-Lead Class Counsel's request for an extension of time until March 16, 2017, to file a consolidated response to the Faneca Objectors' fee petition, the Miller objection, and the other filings.

Consistent with that approach, the Faneca Objectors request leave to file a single, consolidated brief that addresses all responses to their fee petition on or before April 6, 2017. Given the complexity of the issues and the length of time Co-Lead Class Counsel have had to respond to the Faneca Objectors' petition, the Faneca Objectors respectfully submit that up to 21 days is a reasonable amount of time to allow for a reply.

Dated: March 1, 2017

William T. Hangley
Michele D. Hangley
HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER
One Logan Square
18th & Cherry Streets
27th Floor
Philadelphia, PA 19103
(215) 496-7001 (telephone)
(215) 568-0300 (facsimile)
whangley@hangley.com
mdh@hangley.com

Linda S. Mullenix 2305 Barton Creek Blvd., Unit 2 Austin, TX 78735 (512) 263-9330 (telephone) lmullenix@hotmail.com Respectfully Submitted,

/s/ Steven F. Molo

Steven F. Molo Thomas J. Wiegand MOLOLAMKEN LLP 430 Park Ave. New York, NY 10022 (212) 607-8160 (telephone) (212) 607-8161 (facsimile) smolo@mololamken.com twiegand@mololamken.com

Eric R. Nitz MOLOLAMKEN LLP 600 New Hampshire Ave., NW Washington, DC 20037 (202) 556-2000 (telephone) (202) 556-2001 (facsimile) enitz@mololamken.com

Counsel for the Faneca Objectors

¹ The Faneca Objectors filed their petition on January 11, 2017. *See* Dkt. 7070. Over two months will have elapsed by the time Co-Lead Class Counsel respond on March 16, 2017.

CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2017, I caused the foregoing Faneca Objectors' Response to Co-Lead Class Counsel's Motion for Extension of Time to be filed with the United States District Court for the Eastern District of Pennsylvania via the Court's CM/ECF system, which will provide electronic notice to all counsel and parties.

/s/ Steven F. Molo

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

)	
IN RE: NATIONAL FOOTBALL LEAGUE)	2:12-md-02323-AB
PLAYERS' CONCUSSION INJURY LITIG.,)	
)	

CURTIS L. ANDERSON'S SUPPLEMENTAL OBJECTION TO CLASS COUNSEL'S FEE PETITION

Class member Curtis L. Anderson ("Anderson") hereby supplements his original objection to the settlement's fee provision (DE 6248) with the following points germane to class counsels' actual fee petition (DE 7151):

1. Plaintiffs failed to notify class members of their fee petition.

Procedurally, Plaintiffs' fee petition is fatally flawed because class members have been deprived of their fundamental right to object to its reasonableness. According to Plaintiffs' memorandum in support of their motion for settlement approval (DE 6423-1, p. 19): "Co-Lead Class Counsel will file a petition for an award of attorneys' fees and reimbursement of costs after the Effective Date. *Settlement Class Members will have an opportunity to comment on or object to the petition*." (emphasis added) The long-form notice to class members was more specific:

At a later date to be determined by the Court, Co-Lead Class Counsel, Class Counsel and Subclass Counsel will ask the Court for an award of attorneys' fees and reasonable costs. The NFL Parties have agreed not to oppose or object to the request for attorneys' fees and reasonable incurred costs if the request does not exceed \$112.5 million. These fees and incurred costs will be paid separately by the NFL Parties and not from the Baseline Assessment Program Fund, Education Fund or Monetary Award Fund. *Settlement Class Members will have an opportunity to comment on and/or object to this request at an appropriate time.* Ultimately, the award of attorneys' fees and reasonable costs to be paid by the NFL Parties is subject to the approval of the Court. (emphasis added)

Settlement Notice, at 20. In response to complaints that such a fee-deferral procedure violates class members' due process rights, this court noted that interested parties would still have an opportunity to object to the fee petition *when filed*. *In re Nat'l Football League Players' Concussion Injury Litig.*, 307 F.R.D. at 396. On appeal, the Third Circuit affirmed the propriety of separating the settlement and fee motions *provided* class members are notified each time:

Nowhere does the provision require that class counsel move for its fee award at the same time that it moves for final approval of the settlement. Under the Rule, a fee petition must be made by motion served on all parties and, when the motion is made by class counsel, notice must be "directed to class members in a reasonable manner." Fed. R. Civ. P. 23(h)(1). Class members may then object and the court may hold a hearing. Fed. R. Civ. P. 23(h)(2)–(3). And the court "must find the facts and state its legal conclusions" and "may refer issues related to the amount of the award to a special master." Fed. R. Civ. P. 23(h)(3)–(4). So long as these conditions are met, the procedure for awarding attorneys' fees that the District Court approved in this case will not run afoul of subsection (h). (emphasis added)

In re National Football League Players Concussion Injury Litig., 821 F.3d 410, 445 (3rd Cir. 2016). Despite this important caveat, no separate class notice of class counsels' actual fee petition has been served upon absent class members in order to preserve their right to object to its reasonableness. Neither has the fee petition been posted to the settlement's website (unlike other important court documents) as a minimal effort to inform interested parties of this major event.

As a result of Plaintiffs' failure to follow proper protocol, the only class members with a real opportunity to object are the precious few who already secured legal representation to object to the settlement's fairness. This is a far cry from the separate notice assumed by the Third Circuit in affirming Plaintiffs' separate fee petition. If anything, Anderson concurs with Objector Cleo Miller's observation: "[A]II fee petitions are currently premature, because there is currently no evidence before the Court of the value of benefits conferred upon the class on which to base a percentage fee award." (DE 7229, p. 1).

2. Even if the fee petition does not require supplemental notice, the Court should establish an appropriate objection deadline and briefing schedule after it is published on the settlement website.

Despite the unique issues associated with awarding fees in this complex class action, Plaintiffs apparently also hope to treat their petition like an ordinary motion. Accordingly, they point to the local rule on motions *between parties* to cut off further objections to their fee petition. (DE 7228, p. 2, fn. 1). At the same time, Plaintiffs have requested an extension to "streamline the attorneys' fees proceedings and serve the interests of judicial efficiency and economy by having a single, consolidated response filed on one date instead of piecemeal replies or responses to the various filings, thereby sparing the Court from having to consult a multiplicity of briefs for Class Counsel's responses to the various arguments of objectors made either in opposition to the Class Counsel Petition or in support of their own crosspetition for fees." (DE 7228, p. 3).

Such a blatant double standard cannot withstand judicial review. To rigidly apply E.D. Pa. Civ. R. 7.1(c) as a means of foreclosing objections to a fee petition unknown to class members would be to ignore unique rights beyond the "parties" to the litigation long recognized at law. Instead, the Court should: (1) require publication of the fee petition on the settlement website by a date certain; (2) include a notice of the fee objection deadline with the publication; and (3) establish an appropriate briefing schedule leading up to the hearing on Plaintiffs' fee request. At minimum, Anderson alternatively requests leave to file his objections to the fee petition within 7 days of the Court's order.

3. Even if Plaintiffs' fee petition is procedurally proper, it is substantively deficient.

In the interim, Anderson registers his agreement with Objector Miller regarding the following substantive objections to Plaintiffs' fee petition and corrective actions in order to preserve the record on appeal: (a) to defer any fee award until a date after August 7, 2017,

(b) to award Class Counsel no more than 15% of the value of settlement benefits that are

guaranteed to be paid to Class Members during the first year of the Settlement Claims

Process; (c) to void all individual fee contracts between class members and law firms that

receive common benefit fee awards; (d) to deny Class Counsel's request for a 5% holdback

on all monetary awards; (e) to require that Class Counsel periodically return to this Court

and make incremental fee requests as benefits are actually paid to class members; and (f) to

defer all fee awards to objectors until such time as the benefits conferred by objectors, if any,

may be quantified.

CONCLUSION

For all of the foregoing reasons, Anderson asks the Court:

1. To require supplemental notice of Plaintiffs' fee petition to class members (including

notice of objection deadline, briefing schedule and fee hearing date);

2. Alternatively, require publication of Plaintiffs' fee petition on the settlement website

(including notice of objection deadline, briefing schedule and fee hearing date);

3. Alternatively, grant Anderson leave to file objections to the fee petition within 7 days

of the Court's order.

Date: March 1, 2017

Respectfully submitted, Curtis L. Anderson,

By his attorney,

/s/ George W. Cochran

George W. Cochran (Ohio 92855)

1385 Russell Drive

Streetsboro, Ohio 44241

Tel:

(330) 607-2187

Fax: (330) 230-6136

Email: lawchrist@gmail.com

JA7020

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed via the ECF filing system on March 1, 2017, and that as a result electronic notice of the filing was served upon all attorneys of record.

/s/ George W. Cochran
George W. Cochran

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

: MDL No. IN RE: NATIONAL FOOTBALL LEAGUE : 12-md-23 PLAYERS' CONCUSSION INJURY LITIGATION : ORDER AND NOW, this1st day of March, 2017, it is ORDERED that Co-Lead Cla Counsel's Motion for Extension of Time (ECF No. 7228) is GRANTED, as follows: • All deadlines related to Co-Lead Class Counsel's Petition for an Award of Attorneys' Fees (ECF No. 7151) are EXTENDED until further notice; • Co-Lead Class Counsel may file a single omnibus memorandum in reply to objections and other responses to the Co-Lead Class Counsel's Petition for a Award of Attorneys' Fees (ECF No. 7151) and in response to the Faneca	23
 AND NOW, this1st day of March, 2017, it is ORDERED that Co-Lead Cla Counsel's Motion for Extension of Time (ECF No. 7228) is GRANTED, as follows: All deadlines related to Co-Lead Class Counsel's Petition for an Award of Attorneys' Fees (ECF No. 7151) are EXTENDED until further notice; Co-Lead Class Counsel may file a single omnibus memorandum in reply to objections and other responses to the Co-Lead Class Counsel's Petition for an Award of Co-Lead Class Counsel's Petition for an A	
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Award of Attorneys' Fees (ECF No. 7151) and in response to the Faneca	an
Objectors' Petition for an Award of Attorneys' Fees and Expenses (ECF No).
7070).	
s/Anita B. Brody	
ANITA B. BRODY, J.	
Copies VIA ECF on to: Copies MAILED on	to:

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 2:12-md-02323-AB

Civ. Action No.: 14-cv-00029-AB

MDL No. 2323

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

National Football League and NFL Properties, LLC. successor-in-interest to NFL Properties, Inc.,

ALL ACTIONS

Defendants.

THIS DOCUMENT RELATES TO:

STIPULATION AND [PROPOSED] ORDER1

This Stipulation and Agreement, dated March [7], 2017, is made and entered into by and among the National Football League and NFL Properties LLC (the "NFL Parties"), and Class Counsel (collectively, the "Parties").

WHEREAS, on April 22, 2015, this Court issued a Memorandum (ECF No. 6509) and Final Order and Judgment (ECF No. 6510), and on May 8, 2015, an amended Final Order and Judgment (ECF No. 6534), approving the Settlement Agreement in its entirety;

¹ Unless otherwise noted, the terms used in this Order that are defined in the Settlement Agreement have the same meanings in this Order as in the Settlement Agreement.

WHEREAS, on May 4, 2015, Claims Administrator BrownGreer PLC, in accordance with the Final Order and Judgment and the Settlement Agreement, filed the list of Opt Outs who timely submitted proper requests to opt out in compliance with Section 14.2(a) of the Settlement Agreement, including Retired NFL Football Players, Charles Alexander, Jr., Gregory Bell, Darnell Bing, Louis Cordileone and LaBrandon Toefield (ECF No. 6533);

WHEREAS, Charles Alexander, Jr., Gregory Bell, Darnell Bing, Louis Cordileone and LaBrandon Toefield have since submitted written requests seeking to revoke their Opt Out requests (*see* Exhibit 1 (Declaration of Orran L. Brown, Sr.));

WHEREAS, the Parties have agreed to accept the revocation requests submitted by Charles Alexander, Jr., Gregory Bell, Darnell Bing, Louis Cordileone and LaBrandon Toefield, subject to Court approval, because they submitted the requests before Opt Out litigation has commenced in this Court;

AND NOW, this [7] day of March, 2017, it is hereby stipulated and agreed by the Parties that the revocation requests submitted by Charles Alexander, Jr., Gregory Bell, Darnell Bing, Louis Cordileone and LaBrandon Toefield are accepted, subject to Court approval, because they submitted the requests before Opt Out litigation has commenced in this Court.

It is so STIPULATED AND AGREED,

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By:		By: Brad S. Kays	(29)
Date: <u>3/7/17</u>		By: <u>Brad 5. Karp</u> Date: <u>3/7/17</u>	
Christopher Seeger SEEGER WEISS LLP 77 Water Street New York, NY 10005 Phone: (212) 584-0700 cseeger@seegerweiss.com Class Counsel		Brad S. Karp PAUL, WEISS, RIFKIND & GARRISON LLP 1285 Avenue of the America New York, NY 10019-6064 Phone: (212) 373-3000 bkarp@paulweiss.com Counsel for the NFL Partie	as
It is so ORDERED,	based on the	above Stipulation and the	accompanying
Declaration of Orran L. Brow	wn, Sr., that th	e revocation requests submi	tted by Charles
Alexander, Jr., Gregory Bell,	Darnell Bing,	Louis Cordileone and LaBr	andon Toefield
are approved and the Claims	Administrator	is DIRECTED to post a rev	vised list of Opt
Outs forthwith excluding Cl	narles Alexand	er, Jr., Gregory Bell, Darne	ell Bing, Louis
Cordileone and LaBrandon To	pefield.		
		ANITA B. BRODY, J.	
Copies VIA ECF on	_to:	Copies MAILED on	to:

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

ORDER

AND NOW, this __8TH__ day of March, 2017, in light of the fact that Co-Lead Class Counsel has filed a Petition for an Award of Attorneys' Fees (MDL ECF No. 7151) and notice will be distributed to the Class, pursuant to Federal Rule of Civil Procedure 23(h), it is

ORDERED that:

- All objections or other responses to Co-Lead Class Counsel's Petition must be filed on or before March 27, 2017.
- Co-Lead Class Counsel may file an omnibus memorandum in reply to all objections, petitions, and other responses on or before April 10, 2017.

Case: Clas201:22-rDbcC203020tA00311036106592726Pagede01063/08Dlate Filed: 208/09/2019

		s/Anita B. Brody	
		ANITA B. BRODY, J.	
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Case: Clas201:22-nDub Carment A 003 11 to 33 165 9 27 32 Page 123 173 / 23 Date Filed: 108 f09 / 2019

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION

No. 2:12-md-02323-AB

INJURY LITIGATION

MDL No. 2323

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated, Plaintiffs,

Hon. Anita B. Brody

v.

Civ. Action No. 14-00029-AB

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc., Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

ORDER REGARDING RETENTION, EXCHANGE, AND CONFIDENTIALITY OF CLAIMS INFORMATION IN NFL CONCUSSION SETTLEMENT PROGRAM

Considering the Uncontested Motion of Co-Lead Class Counsel, Class Counsel, and Subclass Counsel for entry of an Order in aid of implementation of the NFL Concussion Settlement Program (the "Program"), pursuant to this Court's continuing and exclusive jurisdiction under Article XVII of the NFL Concussion Settlement (the "Settlement Agreement") and the May 8, 2015 Amended Final Approval Order and Judgment, and being fully apprised, and with the consent of Counsel for the NFL Parties, IT IS HEREBY ORDERED as follows:

- Defined Terms. All terms used in this Order have the same meanings given to such terms in the Settlement Agreement. In addition, these terms are used in this Order:
 - (a) "Administrator" or "Administrators" means the Claims Administrator, BAP Administrator, and Lien Resolution Administrator.
 - (b) "Claims Information" means all documents and electronically-stored information

relating to a Settlement Class Member (and/or the subject Retired NFL Football Player if the Settlement Class Member is a Representative Claimant or Derivative Claimant) disclosed to or obtained by the Parties or the Settlement Entities in connection with the administration of the Settlement Agreement. Claims Information does not include general or statistical information regarding Settlement Class Members and claims for Monetary Awards or Derivative Claimant Awards that does not reveal the identity or any other identifying information of any particular Settlement Class Member.

- (c) "Counsel for the Parties" means Co-Lead Class Counsel and Counsel for the NFL Parties.
- (d) "Derivative Claimant Representative" means an authorized representative, ordered by a court or other official of competent jurisdiction under applicable state law, of a living Derivative Claimant who is a minor, legally incapacitated, or incompetent.
- (e) "Document" means any documents or electronically-stored information, including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations, stored in any medium from which information can be obtained.
- (f) "HIPAA" means the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936 (1996) (codified as amended in scattered sections of 42 U.S.C.) and implementing regulations issued by the United States Department of Health Information Technology for Economic and Clinical Health Act (Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (2009)) pertaining to Protected Health Information.
- (g) "Legal Process" means a subpoena or other legal process, including from a bankruptcy trustee, received by or addressed to a Party or Settlement Entity requiring the production of Claims Information.
- (h) "Party" or "Parties" means Co-Lead Class Counsel, Class Counsel, Subclass Counsel, Counsel for the NFL Parties, and the NFL Parties. In any instance in which a Party has access to Claims Information under this Order, such access extends to the respective insurers, reinsurers, agents, representatives, and professionals of that Party (including any independent auditor(s) employed by the Parties pursuant to Section 10.3(a) of the Settlement Agreement), who shall be subject to all provisions of this Order.
- (i) "Protected Health Information" has the definition in 45 C.F.R. § 160.103.
- (j) "Settlement Entity" or "Settlement Entities" means any Special Masters appointed by the Court, the Administrators, the Appeals Advisory Panel, and the Appeals Advisory Panel Consultants. In any instance in which a Settlement Entity has access to Claims Information under this Order, such access extends to the respective agents,

- representatives, and professionals of that Settlement Entity, who shall be subject to all provisions of this Order.
- (k) "Specifically Authorized Recipient" means any person or entity expressly authorized by a Settlement Class Member, in writing substantially similar to the form of Appendix A to this Order, to have access to the Claims Information submitted by the Settlement Class Member.
- 2. Settlement Agreement. This Order implements and does not supersede the provisions regarding the treatment of Confidential Information in Article XVII of the Settlement Agreement.
- 3. Confidentiality of Claims Information. All Claims Information must be kept confidential and cannot be disclosed except as allowed by this Order, the Settlement Agreement, or other order of the Court.
- 4. Use of Claims Information. Subject to Paragraph 18 of this Order, any person or entity receiving any Claims Information pursuant to this Order may use such information only for the purpose for which the recipient was permitted to receive it. All such recipients must take such steps as are necessary to preserve the confidentiality of Claims Information in their possession. If a Party or Settlement Entity discloses Claims Information that includes Protected Health Information to a person or entity that is not a Party or Settlement Entity, when permitted under this Order, the disclosing Party or Settlement Entity shall observe any applicable law, including HIPAA, authorizations provided by Settlement Class Members, and any order of the Court regarding the use or disclosure of Protected Health Information, and use its best efforts to redact and/or anonymize the Claims Information as is practicable in the circumstance.
- 5. Access by the Parties and the Settlement Entities. Each Party, each Settlement Entity, and the Court shall have access to all Claims Information to perform its respective rights, functions, and duties under the Settlement Agreement and orders of the Court, and each Party and Settlement Entity may exchange Claims Information among themselves as is necessary to do so in accordance with the terms of the Settlement Agreement.
- 6. Access by a Retired NFL Football Player, a Specifically Authorized Recipient, or a Derivative Claimant.
 - (a) A Retired NFL Football Player shall have access to (1) his Claims Information and (2) information on any Derivative Claimant that the Claims Administrator determines is reasonably necessary for the Retired NFL Football Player (or his Representative Claimant) to assess and potentially challenge on the basis of the purported relationship with that Retired NFL Football Player, but not to any other Claims Information, unless permitted by this Order. The Representative Claimant of a deceased or legally incapacitated or incompetent Retired NFL Football Player shall have the same access that the Retired NFL Football Player for whom the Representative Claimant serves as the representative would have.

- (b) A Specifically Authorized Recipient of a Settlement Class Member shall have full access to the Claims Information concerning that Settlement Class Member but not to any other Claims Information.
- (c) A Derivative Claimant, or his or her Derivative Claimant Representative, shall have access to (1) his or her Claims Information and (2) other Claims Information that the Claims Administrator determines is reasonably necessary for the Derivative Claimant to submit and complete his or her Derivative Claim Package, such as the identity of the Retired NFL Football Player on which the Derivative Claimant's claim is based, the status of his Monetary Award claim, the amount of his Monetary Award (if any), and the identities of any other Derivative Claimants. Such Claims Information shall not include the Retired NFL Football Player's Protected Health Information unless specifically permitted for cause by the Court and/or Special Masters.
- 7. Provision of Claims Information to Detect and Deter Fraud and Resolve Duplicative Submissions. The Claims Administrator may provide Claims Information on a Settlement Class Member to a health care provider or other third party that may have relevant documents or information necessary for the verification of a claim or other submission in the Program, or to other Settlement Class Members and/or their counsel only as necessary: (a) for the investigation of potential fraud under Sections 10.3 and 10.4 of the Settlement Agreement; or (b) to prevent processing or payment on duplicate claims. Such Claims Information will not include Protected Health Information unless specifically permitted for cause by the Court and/or Special Masters.
- 8. Provision of Claims Information to the Department of Justice and Other Law Enforcement or Investigative Agencies or Officials. For a legitimate law enforcement purpose and upon request and without the necessity of subpoena or other legal process, the Claims Administrator and Special Masters may provide Claims Information to the United States Department of Justice and other federal, state, or local law enforcement agencies or officials and their agents and representatives, in connection with a fraud investigation or prosecution or other criminal proceeding.
- 9. Response to Legal Process. A Party or Settlement Entity will follow this process if it receives Legal Process:
 - (a) A Party or Settlement Entity shall promptly notify the Parties that it received Legal Process.
 - (b) A Party or Settlement Entity is responsible for responding to Legal Process only as to requested Claims Information in its possession.
 - (c) A Party or Settlement Entity shall provide notice to the subject Settlement Class Member that the Party or Settlement Entity received Legal Process. The Settlement Class Member shall be allowed seven days from the date of the notice to object to the Legal Process or such shorter time as may be necessary for the recipient of the Legal Process to comply with it, which shall be specified in the notice. The Settlement Class Member shall send the objection to the recipient of the Legal Process at the

- address and in the method specified in the notice and shall include a copy of any action filed with the issuing court to oppose the Legal Process.
- (d) If the Settlement Class Member does not timely object to the Legal Process, the recipient of the Legal Process may produce the requested Claims Information. If a Settlement Class Member timely objects to the Legal Process:
 - (1) The Settlement Class Member shall promptly take any steps necessary to obtain final resolution of the objection to the Legal Process;
 - (2) The recipient of the Legal Process shall not produce Claims Information until notified of a final resolution of the objection, unless the recipient of the Legal Process would be exposed to a possible finding of contempt in connection with the Legal Process; and
 - (3) The recipient of the Legal Process need not undertake any further responsibility for the Legal Process until the resolution of any objections that were lodged by the Settlement Class Member.
- (e) The recipient of the Legal Process may seek reimbursement from the requesting party for the reasonable costs of responding to Legal Process, including time spent in responding to the request, researching and producing the information, and any testimony required. This Court has continuing and exclusive jurisdiction over any collateral proceedings regarding the validity, enforceability, scope, compliance, and other issues regarding any such Legal Process.
- 10. Limitation on Access and Disclosure. Nothing in this Order requires any Party or Settlement Entity to disclose to Settlement Class Members or their counsel any information disclosed to, obtained by, or generated by the Party, Settlement Entities or any other person in preparation for or in the course of an audit, investigation, or law enforcement activity.
- 11. Use of Confidential Information in Legal Actions. Nothing in this Order affects the ability of a Party or Settlement Entity to use Claims Information in any suit or other legal proceeding relating to the operation of the Program and initiated by a Settlement Class Member or as necessary to enforce the terms of the Settlement Agreement or any order of the Court as to Settlement Class Members or other parties. A Party or Settlement Entity using or disclosing Claims Information pursuant to this Paragraph 11 shall use or disclose only the minimum Claims Information necessary, and, as appropriate, shall apply for a protective order governing the use and disclosure of such information, which shall not be inconsistent with this Order.
- Information from a Party or Settlement Entity shall be bound by this Order, is considered to have submitted to the jurisdiction of this Court for purposes of enforcing this Order, may use the Claims Information only for the purpose for which the recipient was permitted access to such information, and must keep the Claims Information confidential and not disclose it to any party not necessary for the performance of such authorized purpose or as required by law.

- 13. *Method of Access.* A Party or Settlement Entity has the discretion to determine the method by which to provide Claims Information when disclosure to a person or entity that is not a Party or Settlement Entity is authorized under the terms of this Order.
- 14. **Preservation Duty of the Administrators.** Unless otherwise ordered by the Court, each Administrator shall, as to Documents it receives or generates during the administration of the Settlement Agreement:
 - (a) Convert all hardcopy Documents to electronic form.
 - (b) Preserve and retain hardcopy Documents for six months.
 - (c) Preserve and retain all electronically-stored Documents for the shorter of ten years after (1) the termination of the Program, or (2) termination of the Administrator's service in the Program. At the end of the ten-year period, such Documents shall be transferred or disposed of as directed by the Court.

Notwithstanding the above, an Administrator is not required to preserve or retain Documents it determines are not relevant to the Program and should be returned to the submitting party or destroyed.

- Vendors, and Qualified MAF Physicians. Qualified BAP Providers who provide BAP baseline assessment examinations (and any medical institutions or facilities at or through which they provide such examinations), Qualified BAP Pharmacy Vendors providing pharmaceuticals covered as BAP Supplemental Benefits to Retired NFL Football Players, and Qualified MAF Physicians authorized to make Qualifying Diagnoses for Retired NFL Football Players (and any medical institutions or facilities at or through which they provide such examinations), must retain all medical records from such visits in compliance with applicable state and federal laws and, notwithstanding any shorter time period permitted under applicable law, must retain such medical records for not less than ten years after the conclusion of the BAP Term or, in the case of Qualified MAF Physicians, for not less than ten years from the date of any examination.
- 16. Exclusive Retained Jurisdiction. This Court retains continuing and exclusive jurisdiction over the interpretation, implementation, and enforcement of this Order.
- 17. *Implementation of this Order*. The Parties and Settlement Entities have the discretion to develop and maintain internal policies and procedures they deem necessary to implement this Order.

Case: 18s20122-nDtb00001entAB03D1b86116592732Page 8233/23D1ate Filed: 708/09/2019 Case 2:12-md-02323-AB Document 7281-1 Filed 03/10/17 Page 7 of 8

18. Effect on Other Law. Nothing in this Order is intended to restrict or prohibit the use or disclosure of Protected Health Information that is otherwise permitted or required under applicable federal or state law, including, but not limited to, HIPAA.

SO ORDERED this 2017.

Anita B. Brody

United States District Court Judge

Case: **18s201.2.2-nDto-CumentAB0311683116592732** Page 8243/23Date Filed: **608/09**/2019 Case 2:12-md-02323-AB Document 7281-1 Filed 03/10/17 Page 8 of 8

APPENDIX A

NFL

CONCUSSION SETTLEMENT

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION
No. 2:12-md-02323 (E.D. Pa.)

AUTHORIZATION FOR RELEASE OF CLAIMS INFORMATION					
A. Settlement Class Member					
Name:	Last Name	First Name	Middle Initial		
Settlement Program ID:					
	B. Specifically Authorized	Recipient			
Name:	Last Name	First Name	Middle Initial		
	Full Name of Organization				
	Street		Apt/Suite/Unit		
Organization:	City	State	Zip Code		
	Telephone	Email			
Purpose of Disclosure (briefly describe the purpose for which the recipient will use this information):					
	C. Signature				
I authorize the NFL Concussion Settlement Program (the "Program") to release to the Specifically Authorized Recipient named above all information and documents regarding any claim I have submitted to the Program. My consent to release of my Claims Information, which includes Protected Health Information, and documents shall continue to be in force and effect unless and until I notify the Program in writing that I revoke this authorization.					
Signature:					
Name of Person Signing	Last Name	First Name	Middle Initial		
Representative Capacity (If Settlement Class Member is Deceased. a Minor. or Legally Incapacitated):					
Date:		/ (Month/Day/Year)			

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

No. 2:12-md-02323-AB MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

VS.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

De	fendan	ts.			

THIS DOCUMENT RELATES TO: DK#7151

MEMORANDUM IN OPPOSITION TO CO-LEAD CLASS COUNSEL'S PETITION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF COSTS AND EXPENSES, ADOPTION OF A SET-ASIDE OF EACH MONETARY AWARD AND OTHER RELIEF

The following Fifty-Five (55) Plaintiffs: Adibi, Xavier; Bennett Charles; Bigby, Atari; Blackwell, Kory; Bland, Carl; Brown, Greg; Clayton, Harvey; Coleman, Chris; Easmon, Rick; Ferguson, Keith; Fields, Alfred Jitter; Frye, Charlie; Hampton Lorenzo; Harrison Lloyd; Henderson Keith; Higgs Mark; Hill Sean; Hurley, Tarver; Joseph, Elvis; Knox Kevin; Lang Kenard; Lewis, Reggie; Lilly Tony; Mack, Stacey; Manuel, Roderick; Marshall, Torrance; McCoy, Tony; McKnight, James; Nattiel, Michael; Proctor, Basil; Roundtree, Alphonso; Rutledge, Rodrick; Scott, Tony; Smith, John; Solomon, Freddie; Swain, John; Taylor, Travis; Tharpe, Nigel; Thibodeaux, Keith; Walton, Tim; Williams, David L.(6/10/63); Williams, Elijah;

Williams, Oliver; Williams, Kendall; Williams, Brandon; Williams, David Wayne (6/21/66); Wright, Adrian; Threats, Jabbar; Boyd, Greg; Woods, Elbert; Smith, Kevin; Cross, Jeff; Sharpe, Glenn; and Bell, Grantis, hereby adopt and join in Co-Plaintiff's Objection (Document 7282) filed March 10, 2017, in response to Co-Lead Class Counsel's Petition for a 5% set aside hold-back of the retired players Monetary Award.

In sum, Co-lead Counsel's Petition fails to adhere to the settlement agreement in outlining the specific need and use of the funds before an Order is entered, is an impermissible double dipping of attorney's fees with no additional individual class member benefit, interferes with the attorney client agreement and lastly is premature. By way of joining in Co-Plaintiff's objections the arguments are restated below for the court's convenience.

This Memorandum is filed on behalf of the above players, who are Retired NFL Players and members of the Class certified in this matter. Pursuant to the Court's Amended Final Order and Judgment dated May 11, 2015 and the Settlement Agreement entered among the class action parties in this Multidistrict Litigation (the "Settlement Agreement"), Co-Lead Class Counsel (the "CCC") filed its Petition for An Award of Attorneys' Fees, Reimbursement of Costs and Expenses, Adoption of a Set-Aside of Each Monetary Award and other relief on February 13, 2017 (the "Petition"). Along with the Petition, CCC filed a Memorandum in Support of the Petition. One of the features of the Settlement Agreement was that CCC could at some future point petition the Court for an award of up to 5% of any monetary awards to which the individual Class Members would otherwise be entitled as an additional award of attorneys' fees.

The Settlement Agreement, however, already makes provision for payment of CCC attorneys' fees and Notice Costs and the costs (in the past and provision for the future) of the claims administration for the benefits conferred by the Class Action Settlement Agreement.

Without more, these remunerations to CCC and the other Class Counsel are imposing by any standard: over \$128 million when taking into account the attorneys' fees, notice costs and costs of claims administration to be paid by the NFL Defendants. Importantly, nothing in the Settlement Agreement nor any of this Court's orders or findings mandates that the Court approve an additional award of attorneys' fees. The Settlement Agreement itself states that only upon court order shall any funds be "held back" for a Set-Aside for the CCC. For these reasons and those cited below, this court should deny Co-Lead Class Counsel's Petition.

II. CCC'S PETITION WITH RESPECT TO A SET-ASIDE FAILS TO CONFORM TO THE PROVISIONS OF THE SETTLEMENT.

The Set-Aside provision of the Settlement Agreement clearly states:

Any future petition for a set-aside will describe: (i) the proposed amount; (ii) how the money will be used; and (iii) any other relevant information (for example, the assurance that any "set-aside" from a Monetary Award or Derivative Claimant Award for a Settlement Class Member represented by his/her individual counsel will reduce the attorney's fee payable to that counsel by the amount of the "set-aside"). No money will be held back or set aside from any Monetary Award or Derivative Claimant Award without Court approval.

The CCC's Petition directly inverts the requirement of having an account of "how the money will be used" by stating in effect that only upon approval will CCC submit a "detailed plan of administration, including how the funds created from the holdbacks will be pooled and maintained, and how any attorney will apply for compensation for post-Settlement work performed." See Settlement Agreement at ¶ 119 and CCC's Petition at page 64. To be sure, CCC does amorphously recount services that may be required in the future and what labor those services

Page 3 of 10

may entail, but the recitation is long on assumption and short on the plain certainty required by the settlement provision itself.

The requirement to show how the Hold Back will be used must, according to the Settlement Agreement, be in the Petition itself, not some supplement to be filed upon approval. Court approval of any petition "before" any amount is held back or "set aside" concretely establishes that the CCC must show reasonable certainty of use of the funds before the court may consider and grant the petition. See Id. Failure by the CCC to describe the manner in which the proposed Set-Aside will be used is sufficient ground upon which this Court should deny the CCC Petition. Nonetheless, CCC's Petition suffers from further infirmity, which should lead the Court to deny the request outright without further procedural correction.

III. CCC'S PETITION FOR SET-ASIDE REPRESENTS AN IMPERMISSIBLE DOUBLE DIPPING OF FEES TO THE DETRIMENT OF THE INDIVIDUAL CLASS MEMBERS AND CONTRADICTS THE ARGUMENTS MADE FOR APPROVAL OF THE \$112,500,000 ATTORNEYS' FEES AWARD.

Co-Lead Class Counsel was responsible for the negotiated attorneys' fees amount that the NFL Parties will pay to the various Class Counsel. In fact, CCC goes to great lengths in its' Memorandum In Support of the Petition to show the many innovative features of the Settlement including, as directly relevant here, that the attorneys' fees for work for the common benefit fund will be paid by the defendants and not "sliced off" the alleged common benefit fund of \$950,000,000. See, for example, CCC's Memorandum, § III.N. ("...unlike traditional common fund cases, where attorneys' fees are paid as a percentage of the recovery, the NFL Parties will pay any fee award over and above the Settlement's benefits and thus the Class here is further benefitted by not incurring such payment for work done for its common benefit")(emphasis

added); and § IV.B.1. ("Members will have Plaintiffs' Counsel's attorneys' fees and reimbursement of expenses for common benefit work paid for by the NFL Parties, rather than have a portion of the settlement recovery sliced off to pay fees and expenses, which is ordinarily the case with common fund recoveries") and ("it bears repeating that not a single penny of this award will come out of the pockets of a single Class Member")(emphasis added).

Likewise CCC specifically requests, exclusive of the Set- Aside and the initial \$112,500,000 base attorneys' fee1 another \$15,920,000 (\$4,000,000 for Notice Costs and \$11,925,000 for Claims Administrations fees and costs). Despite the assurance of "not a penny" of benefits going to attorneys' fees and the almost \$16 million for costs and administration CCC now seeks 5% of each individual's monetary award. Where CCC seeks to convince the Court of how much it has given the Class Members, it nevertheless simultaneously seeks to contradictorily increase its award at the expense of the Class Members. The CCC's arguments in favor of the Set-Aside focus on future work, but that work is such that it was fully known at the time the settlement was reached. If CCC truly has created an innovative feature where "not a penny" of the Members' monetary awards is used for payment of Class Counsel fees, it could and should have negotiated that amount to be paid by NFL Parties. The effect is that should the Court acquiesce and grant a 5% hold back on the announced "common fund benefit" of \$950,000,000, CCC would realize an award of fees and costs of \$175,925,000 (initial attorneys' fees of \$12,500,000, Notice Costs of \$4,000,000, Claims Administration fees and costs of \$11,925,000 and potential Set-Aside fees of \$47,500,000). Fully 27% of that enormous fee would be chargeable to the individual Class Members.

Here, the Court should note that CCC uses the judicially established lodestar approach to prove the reasonableness of the underlying attorneys' fees award and asserts that the base number for fees arrived at by multiplying reasonable hourly rates times the number of hours reasonably

spent in litigation of the claims yields a \$40 million amount to which CCC applies a 2.6 enhancement multiplier.

There can hardly be any position more contrary to the announced "innovative and ground breaking structure of the Settlement" argument. In arguing that the Court should award the Set-Aside over and above the \$128,500,000 attorneys' fee Notice Costs and Administrative Costs award, CCC cites very nebulous and sundry "labor" to be performed by the CCC in administration of the claims process. CCC, however, has not shown how that labor is in anyway different than that for which CCC will have already been compensated by the over \$128.5 Million figure. Analyzing the affidavits in support of the CCC's Petition, moreover, any observer can readily see that the "Administrative Costs" are not only speculative but that the CCC uses those same cost arguments on which to base its claim that additional monies are needed from a Set-Aside to ensure the smooth administration of the Settlement structure. This can best be described as a "triple dip." Surely CCC was the party in the best position to know what labor would be necessary in creation and maintenance of the claims process infrastructure. To now request additional fees at this very early stage of the process (fees for which provision has already apparently been made in light of the award of \$11,925,000 for Administration Costs) would be to the detriment of the individual Class Members.

IV. CCC'S REQUEST FOR SET-ASIDE IS CONTRA-INDICATED WHERE CONSIDERATION IS GIVEN TO THE INDIVIDUAL CLASS MEMBERS' NEEDS NOW AND TO BE REASONABLY EXPECTED IN THE FUTURE VIS-À-VIS ANY ADDITIONAL LIABILITY TAKEN ON BY CLASS COUNSEL

In its Set-Aside request CCC does not promise any additional individual assistance to the Class Members beyond the generalization of a smoothly running claims process. Having already been compensated and reimbursed fees and notice costs of over \$116.5 million and the NFL parties having paid \$11,925,000 million for the administration of claims, CCC's incentive to increase individual awards is minimal at best. Further, CCC takes on no additional liability or obligation. The labor in achieving the best individual award for Class Members will thus be left, as it has happened in numerous and abundant MDL settlements, to the individual themselves and the attorneys they retain to navigate the labyrinthine-like claims process. Just in a cursory example, the Claims Administrator could place a Retired NFL Player into an inappropriate Monetary Award Class, the individual Class Member would then have to appeal that determination, determine which class would be appropriate if successful in a challenge, appeal to the next level and on and on until the appellate process is exhausted and then newly reenter the gauntlet later in the 65 year life of the settlement if a Member is entitled to move into a new class with attendant new monetary benefits. CCC cannot possibly claim that it will be able to successfully attend the needs of nearly a reported class of over 20,000 retired NFL Players and their families in thoroughly analyzing and correctly litigating the proper Monetary Award Class for each Member with any required and necessary follow-up requests for reconsiderations or appellate labor on individual assessments.

CCC seeks to infringe on the Class Members' individual right to contract with representatives of their choice by innately limiting the contingent fee contract percentage. This is the obvious consequence of inserting language that any Set-Aside percentage chargeable to an individually represented Class Member shall come from the percentage charged by the Members' individual counsel. The provision from which CCC now seeks to directly benefit chills the attorney/client relationships or potential relationships given the reduction forced upon representatives should they be asked to participate by Members. To this same extent, Members are dis-incentivized in choosing their own attorneys, a right fundamental to our jurisprudence.

V. THE CCC'S CLAIM TO ENTITLEMENT AND DETERMINATION OF SETASIDE PERCENTAGE ARE GROSSLY PREMATURE.

By the CCC's own account, the purpose of the Set-Aside is to compensate this body of attorneys for future work over the "lengthy" 65 year life of the Settlement. CCC seeks to determine now that it will need at least \$47.5 million (5% of the reported \$950,000,000 Monetary Award Fund) to effectively meet the future demands of administering this Settlement. The CCC's Memorandum even makes provision for future firms that may seek to inherit the case over those 65 years. Yet any similar class action settlement claims construct, individual class members in MDL 2179 had very little opportunity to achieve a reasonably satisfactory result, if at all. The CCC has not detailed a plan of how the Set-Aside moneys will be disbursed. The Plaintiffs' Petition and Memorandum in support of the Set-Aside is in this respect grossly premature. Having already won approval of the 5% Set-Side, and without a detailed plan of distribution by the CCC any supposed incentive for future firms to take over the supervision of the class action are merely illusory and self-serving assignations by the CCC.

The CCC proposes a present award of up to \$47.5 million only with a promise to give a detailed accounting of proposed distribution scheme after the award is granted. Should the claims process prove to operate as smoothly as the well intentioned design of the CCC and other parties,

then why the need for such an exorbitant amount taken from the individual Class Members' pockets? If, however, the claims process follows the paradigm in these large class action settlement cases administered over any significant length of time, then some claims will be paid in an almost perfunctory manner at the outset but will be challenged and scrutinized ever more severely to the detriment of the individual Class Members as the years where on. It is at this point in the claims process, some-time removed from the initial administration, that Class Members would need all the more help from their chosen personal representatives.

At some point the Court should balance the benefit of the individual Class Members with the ever-increasing need for Counsel to be compensated. Precisely because there is a relatively set fund, which will not increase, the Court should be all the more vigilant to the excesses of remuneration to Class Counsel. Again the Court should not ignore that even without any additional award of a Set-Aside the CCC is already on the verge of receiving \$112,500,000 plus Notice Costs of \$4 million plus an almost \$12 million dollar allowance for past and future administration costs.

WHEREFORE, this Court Should deny Co-Lead Class Counsel's Petition for Attorneys' Fees to the extent CCC is already receiving a more than reasonable fee and cost award and to the extent CCC's Petition requests Set-Aside monies to be paid from the monetary award otherwise payable to individual Class Members. Alternatively, the Court should significantly reduce the percentage of the Set-Aside and limit it to 1% of the monetary awards. This reduction would still nevertheless yield a reasonable minimum award of \$9,500,000 to the CCC and most likely more depending on the ultimate diagnoses of the individual Class Members.

CERTIFICATE OF SERVICE

I CERTIFY that the above has been filed with the Clerk of Court's EF/ECM system, which will provide service to all parties designated to receive service this March 27, 2017.

/S/SANGA TURNBULL
MARK STALLWORTH, ESQUIRE
LEAD COUNSEL
FLORIDA BAR NUMBER 0506079
SANGA TURNBULL, ESQUIRE
FLORIDA BAR NUMBER 0585327
SMITH AND STALLWORTH P.A.
500 SOUTH FLORIDA AVENUE, SUITE 510
LAKELAND, FLORIDA 33801
TELEPHONE: 863-535-2030

FACSIMILE: 863-940-4888

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: Document 7151

MEMORANDUM IN OPPOSITION TO CO-LEAD CLASS COUNSEL'S PETITION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF COSTS AND EXPENSES, ADOPTION OF A SET-ASIDE OF FIVE PERCENT OF EACH MONETARY AWARD AND DERIVATIVE CLAIMANT AWARD, AND CASE CONTRIBUTION AWARDS TO CLASS REPRESENTATIVES

I. INTRODUCTION

This Memorandum is filed on behalf of more than one hundred and fifty (150) Class Members represented by the undersigned, some of which are Kenyon Coleman, Timothy Rother, Garrick Jones, Quentin Harris, Zuriel Smith, Hurvin McCormack, Henry Taylor, Jacoby

Rhinehart, Alvis Whitted and Robert Taylor III, who are Retired NFL Players and members of the Class certified in this matter.

Co-Lead Class Counsel ("Class Counsel") filed its petition for an Award of Attorneys' Fees, Reimbursement of Costs and Expenses, Adoption of a Set-Aside of Five Percent of Each Monetary Award, and Case Contribution Award to Class Representatives, and memorandum in support thereof on February 13, 2017 (the "Petition").

The Court should deny Class Counsel's Petition to the extent Class Counsel requests a maximum set-aside of five percent, because the Petition for a set-aside fails to satisfy the requirements of the Settlement Agreement, Class Counsel's attempt to collect the maximum set-aside is premature and will irreparably harm the most injured Class Members, and the set-aside interferes with Class Members' ability to retain independent legal counsel of their choice.

II. CLASS COUNSEL'S PETITION FOR A SET-ASIDE FAILS TO SATISFY THE REQUIREMENTS OF THE SETTLEMENT AGREEMENT

Section 21.1 of the Settlement Agreement provides the requirements for the Set-Aside as follows:

Any future petition for a set-aside will describe: (i) the proposed amount; (ii) how the money will be used; and (iii) any other relevant information (for example, the assurance that any "set-aside" from a Monetary Award or Derivative Claimant Award for a Settlement Class Member represented by his/her individual counsel will reduce the attorney's fee payable to that counsel by the amount of the "set-aside"). No money will be held back or set aside from any Monetary Award or Derivative Claimant Award without Court approval. The NFL Parties believe that any such proposed set aside application is a matter strictly between and among Settlement Class Members, Class Counsel, and individual counsel for Settlement Class Members. The NFL Parties therefore take no position on the proposed set aside and will take no position on the proposed set aside in the event such an application is made. [Emphasis Added]

It is clear from the plain language of the Settlement Agreement that any future petition for a set-aside is <u>required to describe</u> "the proposed amount" and "how the money will be used". Class Counsel's Petition fails in this regard.

With respect to "the proposed amount" requirement of the three-part test, Class Counsel prematurely asserts that 5% of each Monetary Award should be set-aside now, rather than the court determining a set aside to pay for future attorney fees *up to 5%*. Class counsel is trying to do this backwards. Section 21.1's meaning of "proposed amount" refers to the total amount of monies collected from a set-aside, rather than individual levy amounts.

First, Class Counsel's assertion that the set-aside refers to the individual amount, rather than the total amount of the set-aside, ignores Class Counsel's own stated purpose of the set-aside, which is to cover the collective common benefit costs of Class Counsel. If the purpose of the set-aside is to cover the collective common benefit costs of Class Counsel, then Class Counsel is required to inform the Court and the Class (that is having its recovery substantially reduced by the set-aside) the actual or estimated cost of such collective common benefit activities. Only after the Court has approved the collective common benefit costs as "the proposed amount" should the amount of the levy, if any, to be imposed on the Class be determined, *up to 5%* (which is inconceivable given the amount of work which will be reasonably involved). Rather than present the attorney fees which are or will be incurred, Class Counsel has simply elected to misinterpret this requirement to mean an arbitrary percentage tax of each Monetary Award, to be imposed on the Class, without any reference to any quantity of the number of hours or billable rates for any attorney fees.

Second, taken with the other text of Section 21.1 it is clear that "the proposed amount" of the set-aside refers to the total collective common benefit costs of Class Counsel, as opposed to the individual levy amount. Specifically, sub-part (iii) of the text quoted above requires Class Counsel to state "how the money will be used". Based on this, the correct interpretation is that the total amount collected will be based on how the money collected is used. However, applying Class

Counsel's interpretation, it is impossible to state how or even if an individual five percent (5%) levy will be used for any purpose for work which might or might not be done in the future.

Finally, Class Counsel's interpretation that "the proposed amount" of the set-aside refers to the individual levy amount is simply an unfair interpretation against the Class, the same Class that Class Counsel is charged with representing. A fair interpretation requires transparency and at a minimum that Class Counsel inform the Court and the Class of the amount they believe will be incurred in common benefit costs. In other words "the proposed amount." Class Counsel is attempting to work backwards, asking to sell a service without providing the cost of the service. That sort of arrangement does not occur in any area of life or business, as it is offensive to any reasonable person's understanding of equity.

With respect to the "how the money will be used" element of the three-part test, Class Counsel simply asserts the general tasks that will be required without any sort of allocations as to the time and people hours that will be required. Class Counsel's descriptions are entirely vague and ambiguous and render any sort of actual assessment impossible. Class Counsel admits as much in the Petition when they state "...Plaintiffs' Counsel cannot fully or accurately predict the scope or extent of those necessary services..." (See Petition page 64). If Class Counsel cannot predict the scope or extent of those necessary services isn't it premature to levy such a heavy-handed assessment on the Monetary Awards of the Class?

III. CLASS COUNSEL SHOULD NOT ATTEMPT TO COLLECT ENOUGH MONEY FOR THE ENTIRE 65-YEAR LIFE OF THE SETTLEMENT WITH THIS FIRST PETITION FOR A SET-ASIDE

Class Counsel's attempt to collect (with this first Petition for a set-aside) all of the money it claims is necessary to fund the common benefit costs for the entire 65-year life of the Settlement is detrimental to the class and rooted in self-interest for Class Counsel and should be denied.

Section 21.1 of the Settlement Agreement provides in part that "[a]ny future petition for a set-aside will describe..." [Emphasis added]. This means that Class Counsel is not limited to one petition for a set-aside and can make as many petitions as it deems appropriate as time goes by. By providing this flexibility the Settlement Agreement protects the rights of the Class to adjust upwards or downwards the amount of a set-aside, if any, to fund common benefit costs. There is no requirement in the Settlement Agreement that the first petition for a set-aside capture so much money to fund the entire 65-year life of the Settlement, especially where it is unclear what the amounts will be and when they are unlikely to be so high.

There is no such requirement for precisely the reason that there is a far greater chance of inaccuracy and miscalculation when projecting costs over a 65-year time period than on a much shorter time period. It is indisputable that a 1-year budget will be exponentially more accurate than a 65-year budget. Because Class Counsel can adjust the amount of the set-aside as often as it likes and it is clear that a 65-year projection will be rife with errors¹, there is no valid reason to attempt to levy the maximum set-aside now to collect for 65 years, especially without any projections of how many attorney hours will be involved and the dollar value of what would be reasonably necessary will only be a fraction of what is being request by Class Counsel today. Class Counsel's

¹ It is plain that the proposed 5% set aside currently requested is in error. It is inconceivable that tens of millions of dollars in attorney fees and costs will be incurred by Class Counsel in the future for common interest activities.

inconvenience of monitoring its own spending and making an annual petition is not a reasonable justification for the tremendous additional financial hardship they are attempting to impose on the Class.

Class Members who have the maximum set-aside levied against their Monetary Awards are the most likely to suffer irreparable harm. There are two reasons. First, it is the most disabled and needy Class Members who will seek a monetary recovery early in the claims process and will be penalized more by front-loading the maximum set-aside. The life expectancy of especially damaged Class Members is much lower than the average public. Once the Settlement has matured a few years and Class Counsel realizes that they collected far too much money from Class Members, many of those Class Members who were penalized will have long since died. The detriment to Class Members who have to pay Class Counsel those precious extra dollars that should have been used to help them live out the last few years of their lives in mild comfort and with some dignity is irreversible.

If Class Counsel's Petition is granted and the maximum levy of five percent is immediately applied now to Monetary Awards, Class Counsel will have easy access to a large, hard to monitor and manage, slush fund. This invitation of moral hazard directly into its offices will definitely lead to padded bills and internal billable targets. Solutions will seek problems when there is a guarantee of payment without accountability.

There are many better alternatives than immediately charging the maximum levy on the Class in order to collect for a 65-year period for attorney time that will likely never be necessary. As an example, the Court may grant a much smaller and more reasonable set-aside now and Class Counsel may present a reconciliation of actual costs incurred in twelve months. In the event of a shortfall, Class Counsel may then petition for an increase of the set-aside to cover projected costs

for the next twelve months and the shortfall. There will be enough information twelve months from now as to the actual common benefits costs of maintaining the Settlement, permitting an accurate set-aside based on reality. Class Counsel is seeking the maximum amount for a set-aside, even though it is highly unlikely to actually cost that much, rather than trying to get it right.

IV. THE FIVE PERCENT SET-ASIDE INTERFERES WITH CLASS MEMBERS' RIGHT AND ABILITY TO RETAIN EFFECTIVE INDEPENDENT LEGAL COUNSEL OF THEIR CHOICE

The five percent set-aside is harmful to the Class because it interferes with Class Members' ability to retain effective independent legal counsel who will represent their specific needs. The detrimental impact of this interference far outweighs any supposed benefit of levying the maximum permitted set-aside on Class Members' Monetary Award amounts.

A. INDEPENDENT LEGAL COUNSEL ARE NECESSARY FOR CLASS MEMBERS

A key point that Class Counsel omit in their Petition is that for the vast majority of Class Members independent legal counsel is necessary to properly handle each Class Member's claim through the complex and elaborate claims administration process.

Class Counsel's position is that Class Members do not need independent legal counsel to represent them in the claims administration process of the Settlement. Class Counsel ignores the reality of the litigation: mild traumatic brain injury on Retired NFL Players makes it difficult or impossible for most of the damaged players to obtain a monetary recovery without effective legal counsel. To be clear: the most mild form of medical diagnosis that qualifies a Class Member for a Monetary Award is commensurate with mild-dementia. Any Class Members that qualify for a Monetary Award under the Settlement will suffer from some level of neurocognitive impairment, which means that they will have much difficulty with basic administrative tasks, and prohibitive

difficulty in dealing with more complicated tasks, such as those required in connection with applying for and receiving a Monetary Award under the Settlement.

Certain nuances that are particular to this Class also elevate the amount of care and personal attention that Class Members require from their individual claims attorneys. Many Class Members suffer from mood disorders and emotional disability resulting from the brain trauma. This makes representing them more difficult, especially where those neurocognitive impairments have driven away family and friends who may have helped the attorney in communicating with the client or collecting information. Independent legal counsel must cope with clients who act erratically, can be unreliable and who have trouble with communicating with the attorney, providing information and keeping appointments. The individual attention required, and expected, by Class Members necessitates commensurate compensation from their individual attorneys to provide sufficient financial incentive for independent legal counsel for this type of representation.

In addition to suffering from neurocognitive issues, many Class Members are victims of educational institutions who historically disregarded the quality of the Class Members' higher education in exchange for their performance in sport. This is worsened by a system of forced dependency on outside experts readily available throughout their professional careers. The result is an impaired individual who has failed to learn the skills required to independently complete administrative tasks which are required in the claims process. They need help from lawyers and those lawyers must provide more attention and effort than the average client because of the socioeconomic disadvantages many of the Class Members have historically suffered from.

As individual counsel for more than one hundred and fifty Class Members we understand that time and attention is not only required with respect to the Retired NFL Players, but also their family members. Something that is not addressed in the Petition is that the responsibility for taking

care of a severely impaired Class Member typically falls on the family of that Class Member. The family members of Class Members play a vital and large role in all matters of their lives. Independent legal counsel such as our firm are asked to provide intensive counseling and advice to Class Members, as well as their family members.

The large size of the Class makes it impossible for Class Counsel to provide the individualized attention independent legal counsel will be in a position to provide. According to Class Counsel's own Petition the Class is estimated to include more than 20,000 Class Members (See Petition page 17). Surely, Class Counsel doesn't propose that it will act as a counselor to all of these more than 20,000 Class Members, and their families? Class Counsel is not suggesting this as Class Counsel recognizes that the services being provided by independent legal counsel to Class Members in the claims administration process is a wholly separate and distinct set of services. Class Counsel alone, with all of its resources, would not be in a position to provide these services to even a small percentage of the Class Members. Independent legal counsel are absolutely necessary to avoid unfairly disenfranchising the vast majority of otherwise eligible and deserving Class Members.

B. THE FIVE PERCENT SET-ASIDE INTERFERES WITH CLASS MEMBERS' ABILITY TO RETAIN INDIVIDUAL COUNSEL

Independent legal counsel is necessary with respect to the vast majority of Class Members, and any interference with a Class Member's ability to retain such counsel should be rejected by the Court. The Court should reject the maximum five percent set-aside requested by Class Counsel, because it significantly interferes with Class Members' fundamental right and ability to retain independent legal counsel, and ultimately results in irreparable harm to Class Members.

Independent legal counsel operate in a free market environment, and offer their services to the public at a rate determined by the market. If Class Counsel's Petition is granted and the maximum five percent set-aside is deducted from independent legal counsel's payment (which is proportionally between 20-50% of their attorney fees), independent legal counsel will have to increase the cost of their service by between 20-50% in most cases to their future clients. The immediate harm to Class Members is that the cost of absolutely necessary independent legal counsel for Class Members will instantly increase by the amount of the set-aside.

The imposition of this maximum five percent set-aside will also lead to a proliferation of low quality legal services for Class Members. As qualified independent legal counsel raise rates, unqualified independent legal counsel will not increase their rates to compete, since their only competitive advantage will be cost. Class Members who seek independent representation will be faced with two market choices: qualified attorneys who provide quality legal services but charge seemingly too much for their services and on the other hand unqualified attorneys who provide beguilingly lower cost representation but at low quality in terms of legal services. Many Class Members will simply choose the low cost alternative to the detriment of the outcome of their claim. Class Counsel's Petition effectively pushes Class Members into the arms of unqualified, low cost legal service providers, many of whom will fail to properly handle the Class Members claim, leaving them with nothing and no way to rehabilitate their claim. Many Class Members will be irreparably harmed without any justification.

The quality of legal services received by Class Members will also be negatively impacted when independent legal counsel are forced to spend less resources on each claim. Independent legal counsel who represent a large number of Class Members will be forced to reduce the time and effort on each individual claim to make up for the dramatically lower, projected revenues even a 2% set aside would cause. This is due to the simple economics of the business of a law practice. The net result will be a reduction in the quality and amount of services received by Class Members.

Finally, Class Counsel and the other law firms designated as co-lead counsel in this matter will have an unfair advantage over independent legal counsel which will work to the detriment of Class Members. Class Counsel and the other law firms designated as co-lead counsel, when representing individual clients in the claims administration process can simply write off the five percent set-aside, knowing that the set-aside will enter a pool that they will eventually be paid from. This artificially inflates the value of their services in the marketplace because all other comparable independent legal counsel will have to raise rates and lower the level of service. The result is to the ultimate detriment of Class Members because it stifles competition and funnels Class Members to Class Counsel which are unable and not incentivized to provide effective representation to individual Class Members who come to them for representation. Competition forces firms to provide the highest quality services for the lowest amount. These firms can afford to be less competitive (i.e. provide lower quality services at a higher cost) because they will have a built-in, systemic advantage (no impact of set-aside). The only beneficiary is Class Counsel.

WHEREFORE, this Court should deny Class Counsel's Petition to the extent Class Counsel's Petition requests a five percent set-aside to be withheld from Monetary Awards otherwise payable to Class Members. In the alternative, the Court should approve a less than one percent (1%) set-aside upon Class Counsel's delivery of satisfactory evidence supporting the use of funds for the common benefit.

Respectfully submitted,

Top NFL Lawyers, Attorneys at Law

s//Anoush Hakimi//

Anoush Hakimi, Esq.
Ca. Bar No. 228858
1420 S. Figueroa Street, Suite 107
Los Angeles, California 90015
Telephone: (213) 275 – 1269

Facsimile: (213) 402 – 2170 anoush@topnfllawyer.com

Attorney for Individual Class Members Identified on Notice of Appearance, and other Class Members

other Class Members

CERTIFICATE OF SERVICE

I	CERTIFY	that the	above has	been file	d with	the Clerk	of Cour	t's CM /	ECF s	system,
which wi	ll provide	service to	all parties	designate	d to red	ceive serv	ice this N	March 27,	, 2017.	

s//Anoush Hakimi// Anoush Hakimi, Esq.

UNITED STATES DISTRICT COURT EASTER DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION,

Plaintiffs,

vs.

NATIONAL FOOTBALL LEAGUE, et.al,

Defendants,

No. 2:12-md-02323-AB

Honorable Anita Brody

MDL No. 2323

THIS DOCUMENT RELATES TO: DKT#7151

OBJECTION AND MEMORANDUM IN OPPOSITION TO CO-LEAD COUNSEL'S PETITION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF COSTS AND EXPENSES, ADOPTION OF SET ASIDE OF EACH MONETARY AWARD AND OTHER RELIEF

I. <u>INTRODUCTION</u>

This Objection and Memorandum of Law is filed on behalf of the 184 Retired NFL Players and members of the Class Certified in this matter as identified in Exhibit "A" hereto, and who state the following:

On February 13, 2017, Co-Lead Class Counsel (the "CCC") filed its Petition for Award of Attorneys' Fees, Reimbursement of Costs and Expenses, Adoption of Set-Aside of Each Monetary Award and other relief (ECF Docket No. 7151). Footnote 38 of the accompanying

Memorandum of Law (ECF Docket No. 7151-1), cites a number of cases purporting to justify the award of the monetary set aside of 5% of each individual award to a retired player in addition to the request for \$112,500,000.00 as a defined common benefit Fee Award. As stated in the accompanying Memorandum, "[t]he requested [5%] set aside thus provides a source to facilitate fair and reasonable compensation ... of Plaintiffs' Counsel for the benefit of the Class over the coming years." With respect, these cases do not support an immediate twelve figure fee award for the CCC with a substantial 5% monetary set aside also for the CCC in the expected amount of at least \$47.5 million (5% of the reported \$950,000,000.00 Monetary Award Fund). In fact, the cases cited by the CCC seem to support the notion there is no basis for awarding both an immediate and fully paid defined fee benefit and a subsequent substantial fee set aside.

For instance, in *In re Avandia Marketing Sales Practices and Products Liability Litigation*, MDL No. 1871, 2012 WL 6923367 (E.D. Pa. October 19, 2012), class counsel expended 134,000 hours of fee credits with a calculated lodestar of \$55 million. As part of that common benefit, the class counsel took some 220 depositions, reviewed 30 million pages of documents, litigated various substantive motions on a variety of legal issues, attended some 30 discovery hearings before a special master, and prepared several bellwether cases for trial, among other significant matters. The expert hired to determine the value of that fee award, based upon the set aside and the expected value of the settlement, calculated a total fee award of approximately \$143,750,000.00 (or roughly \$1,072.00 an hour).

A vast number of fee awards can be found in multidistrict cases. The undersigned assumes the CCC selected those cases that best support its position for a defined fee request (\$112,500,000.00) and a 5% set aside. Although the CCC did cite *In re Diet Drugs*, 582 F.3d 524 (3rd Cir. 2009), it does not appear either this or the other cases cited support both a large defined fee award and the immediate large set aside sought in this case. Moreover, a large defined fee award apparently caused the court to abolish the previously ordered set aside in the Deep Water Horizon litigation. *In re: Oil Spill by the Oil Rig"Deep Water Horizon" in the Gulf of Mexico*, MDL No. 2179, 2016 WL 6215974, at Page 5 (E.D. La. October 25, 2016)(awarding \$600 Million as a defined benefit fee paid by Defendants with 230,000 hours of attorney time; however, the initial 4% set asides "were ultimately released, the funds were returned, and no business, individual, or local government entity (nor their own individually retained attorneys) would be required to make any common benefit cost contribution or pay any common benefit fee in this litigation.")

In this case, CCC has identified approximately 51,000 of hourly fee credits with a calculated Lodestar of approximately \$41 million for a defined fee award of \$112,500,000.00, costs in the amount of \$4,000,000.00, plus the 5% set aside of the amount of each players' claim for future fees. Not including funds for fees from the requested 5% set aside by CCC, the fee award to the CCC will still be approximately \$2,206.00 an hour. Without including the requested set aside, compared to the counsel in the case the CCC cited, the CCC is receiving twice the hourly monetary benefit for doing about one third of the hourly work. The large hourly rate also assumes that none of the time submitted by the individual CCC counsel includes hours of time "passively involved in meetings, reviewing emails, telephone conferences, or attending hearings merely to observe" that should not be included as having contributed to the common benefit. In re Nuvaring Products Liability Litigation, No. 4:08 MDL 1964 RWS, 2014 WL 7271959, at Page 5 (December 18, 2014). See also In re Guidant Corporation Implantable Defibirillators Products Liability Litigation, MDL No. 05-1708, 2008 WL 682174, at Page 11 (D. Minn. March 7, 2008)(noting some class counsel conducted extensive discovery and prepared for trial while others filed a form complaint or other work requiring even less skill). However, because the Fee Petition fails to specify how that attorney time was spent, with deductions that might be warranted, the hourly fee award could be substantially greater than the \$2,206.00 an hour sought under the defined fee award in this case. Under the circumstances, not only would an additional award through a set aside be inequitable, none of the cases cited by CCC support both an immediate twelve figure common benefit fee award and a substantial set aside taken from the individual claimants.

To be clear, despite the relative disparity in the amount of work done in these matters, the undersigned are not directly contesting the \$112,500,000.00 fee award. But, with respect, given

the magnitude of the defined benefit fee award and large hourly rate engendered thereby, until such time as the CCC sets forth a detailed plan of costs that it claims are needed with attendant discovery to assist the Court in the evaluation of that plan, the funds that the CCC is requesting for the BAP and other programs needed should be held back from the defined fee award of \$112,500,000.00. In this way, the Court can protect the interests of everyone until such time as it can be determined whether the common benefit has been realized and whether a set aside is actually necessary. The "district court must exercise its inherent authority to assure that the amount and the mode of payment of attorneys' fees are fair and proper." *In re Cendant Corporation PRIDES Litigation*, 243 F.3d 722, 730 (3d Cir. 2001). However, for the reasons stated below, the undersigned emphatically object to any set aside of the recovery of any individual player (or derivative claimant) award at this time.

II. THERE HAS BEEN LITTLE OR NO COMMON BENEFIT SHOWN THE UNDERSIGNED COUNSEL REPRESENTING INDIVIDUAL RETIRED PLAYERS

In awarding a set aside for a common fund benefit, the Eastern District of Missouri touted the fact the "leadership group shares the products of its labors with all of the plaintiffs" including "all depositions and other discovery responses" and "state counsel [received] the massive document production." *In re Genetically Modified Rice Litigation*, MDL 06-1811, 2010 WL 716190, at Page 2 (E.D.Mo. February 24, 2010).

The undersigned representing the claims of the individual players have not experienced the same type of cooperation. In attempting to represent certain undersigned players who were formerly represented by other firms including members of the CCC, the undersigned contacted many of these counsel asking them to provide a statement of itemized costs to protect any reasonable costs expended on behalf of each former client as well as any medical records or

other documents former counsel had that might benefit the retired player in their individual injury claims. To date, only one firm on behalf of one player has provided documents. Perhaps none of these firms have any records or files related to these specific players. However, the Accompanying Memorandum to the Fee Petition and the Seeger Declaration both proclaim the important benefits of the "epidemiological study" conducted from the records of some 2,000 retired players. Perhaps it would have been helpful if any one of these firms had responded stating they do not have records for the specific players requested but the epidemiological study prepared by the CCC is available to assist with the "epidemiology of neurocognitive disease suffered by retired NFL Players". This and other valuable information that may be in the possession of these firms could have been provided to assist with the individual claims of our clients.

In addition, some firms have refused to accept their termination by the retired player and have refused to allow the undersigned to register as their primary counsel. Counsel have written the Locks firm on two separate occasions and called their offices at least twice asking for records and the withdrawal of their registration (Composite Exhibit B). As of the date of this filing, no response has been received. Nevertheless, in Exhibit D to the accompanying Memorandum of Law, the Locks Firm seeks its portion of the \$112,500,000.00 fee award. Presumably, the Locks Firm will also seek a portion of the set aside, if ordered. Other retired NFL Players have expressed similar concerns about the scope of the prior representation by some CCC members in their individual claims and noted the failure of these CCC members to cooperate with their new counsel (Composite Exhibit "C"). On information and belief, other counsel representing retired NFL Players and the players themselves have likewise failed to receive the fruits of the labor of

the CCC in the prosecution of their individual claims.² This lack of cooperation makes it more difficult for class members to prosecute their claims. In other cases, the courts have used the concept of "common detriment" to properly value the fee award in circumstances where counsel have acted to prolong the litigation or otherwise frustrate the recovery sought by the injured parties. In such circumstances, a fee award can be diminished to compensate the parties and deter future poor conduct. *In re Nuvaring Products Liability Litigation*, No. 4:08 MDL 1964 RWS, 2014 WL 727159, at Page 5 (E.D. Missouri December 18, 2014).

Finally, it is not lost on the undersigned that the Fee Petition was filed on February 13, 2017, days after the registration process began while counsel representing the individual players were negotiating that registration process and preparing their clients for the immediate submission of their individual claims outside of the BAP Program. With respect, any fee petition before August 7, 2017, is premature because the class size and the benefits conferred cannot be calculated until the completion of the registration process. Moreover, any consideration before that date will deprive those former NFL Players who have yet to register the ability to obtain their own counsel to represent them on these very issues. Finally, the cornerstone for the request for the payment of the defined fee benefit by the CCC is that registration has started and "the program is expected to begin delivering benefits to Class Members in the next several months." The undersigned can only hope the latter is true but experience has shown those common benefits may not materialize as rapidly as the CCC expects. In short, there is no real reason to submit this proposal for evaluation while the most important part of the program is currently underway. In addition, more time to evaluate the Petition and conduct discovery should be afforded if the Court is inclined to grant the set-aside.

² See Pro se filing in Response and Opposing Motion to Zimmerman Reed's Notice and Motion for Attorney Lien, dated March 21, 2017 [ECF Document 7313].

III. MANY OF THE PLAYERS ARE NOT USING THE BAP THAT CCC HAS REQUESTED THE SET ASIDE TO FUND

Section IV (E) of the accompanying Memorandum of Law (ECF Docket No. 7151-1) generally sets forth the reasons why the "Five Percent Set-Aside is Necessary to Support Effectuation and Administration of the Settlement." Included in that section are expenses in connection with the launch of the BAP, reviewing applications of BAP Providers, contracting with Providers to establish networks, finalizing BAP procedures, replacement of BAP providers over time, audits of the BAP programs and other BAP related expenses.

However, like many other retired players across the country, the players represented by the undersigned have elected to submit their claims outside of the BAP process by seeing their own physicians and using their own existing providers where possible. This divergence in approach between many of the members of the CCC and other firms representing retired players explains why many players have sought representation beyond their original counsel. Consequently, there is little or no reason to charge those retired NFL Players a set aside when they are not seeking the benefits of the BAP programs. Moreover, any delay in establishing a set aside, would not be effected by these claims because of the minimal common benefit beyond the \$112,500,000.00 being sought for those players operating outside of the BAP.

IV. THE PETITION BY THE CCC FAILS TO COMPLY WITH THE PROVISIONS OF THE APRIL 22, 2015, COURT ORDER APPROVING THE SETTLEMENT AS WELL AS THE TERMS OF THE SETTLEMENT

Paragraph I(D)(vi) of the April 25, 2015, Order, states the CCC may petition the Court to set aside up to 5% of each award to administer the settlement but this request "is subject to court approval, and any petition must include the amount of any set aside and its proposed use." *In re National Football League Players' Concussion Injury Litigation*, 307 F.R.D. 351 (E.D. Pa. 2015). The Set-Aside Provision of the Settlement, Section 21.1 of the Amended Settlement

Agreement, also clearly states in relevant part: "Any future petition for a set-aside will describe: (i) the proposed amount; (ii) how the money will be used; and (iii) any other relevant information." That same language appeared in the Notice approved by the Court to the retired players in Paragraph 34 under the heading how will the lawyers be paid (ECF Docket 6086-1).

The Petition filed by the CCC fails to comply with either the Court Order or the terms of the Amended Settlement. Instead, in contradiction of the Order and the terms of the settlement, the CCC plans to submit a detailed plan of administration only after the Court has approved the set aside. The plain language governing "(ii) how the money will be used; and (iii) any other relevant information" require something more than the general statement incorporated into the Accompanying Memorandum. Perhaps the requirement for other relevant information has been met, but what has not been provided is how the money will actually be used.

Without knowing what is really needed or how it will be spent in the future, it is difficult to assess whether the true common benefit of \$1,163,425,000.00, alleged by the CCC has actually been realized. With respect, it could also very well be that the defined fee award provides more than enough compensation for the long term management of the program. Under the circumstances, the 5% set aside should not be invoked until any interested party has had sufficient time to review the plan details and conduct any necessary discovery related thereto. See In re Diet Drugs, 582 F.3d 524, 533 (3d Cir. 2009)(noting the court allowed limited discovery regarding the fee petition to provide more transparency to the process). The Federal District Court in that case also awarded an interim amount (approximately \$38,430,728.00 of the \$200,000,000.00) from the Fund A Legal Fees Escrow Account set aside by Wyeth f/k/a American Home Products. 582 F.3d at 536. Until such time as a detailed plan is filed, that same process could be followed here.

V. THE CCC HAS FAILED TO JUSTIFY THE NEED FOR A 5% MANDATORY SET ASIDE FROM THE CLAIMS OF THE INDIVIDUAL PLAYERS

The primary purpose for a common benefit fund set aside is to eliminate the free rider problem that often follows when counsel organizing the class are not fully compensated for their work and other new counsel reap a windfall because those new counsel received the benefits of that labor that was undercompensated. As stated by the Eastern District of Minnesota, in those cases where a common benefit is ordered, the common benefit fund is "[o]ne measure used by courts (and parties) to avoid unjust enrichment of persons who benefit from a lawsuit without shouldering those costs, and to fairly compensate those attorneys who coordinate the litigation and shoulder the heaviest burden..." In re Guidant Corporation Implantable Defibirillators Products Liability Litigation, MDL No. 05-1708, 2008 WL 682174, at Page 4 (D. Minn. March 7, 2008). The Fee Petition seems devoid of any allegation or suggestion that the CCC members have not been fairly compensated for their role and future roles in this matter. Because the second prong has been fully met and CCC counsel have been fairly compensated, under the circumstances, there is no reason for a 5% set aside.

Assuming the Court approves the Defined Fee and Cost Petition, the CCC will receive some \$116.5 million and the NFL Parties will have paid \$11,925,000.00 for the administration of the claims. The CCC has failed to demonstrate a further common benefit other than the assertion that the plan will operate with more efficiency. However, each individual player will be required to exert their own labor to run the gauntlet of claims procedures and medical requirements to obtain the best award possible. In this regard, the 5% set aside does not promise any common benefit for the individual players in obtaining the best award possible. As an example, the undersigned were involved in what was supposed to be an efficient and timely claimant friendly claims process in the Deepwater Horizon Litigation. That was not the case and it was left to

counsel representing the individual claimants to obtain the maximum award possible. Likewise, under the circumstances in this case and the limited time spent litigating this matter, proving each individual claim may actually become the heaviest legal burden.

VI. THE PETITION FOR SET-ASIDE RESULTS IN OVERCOMPENSATION TO THE CCC AT THE EXPENSE OF THE INDIVIDUAL CLASS MEMBERS

The CCC repeatedly asserts that "not a penny" of benefits is paid to the \$112,500,000.00 fund for attorneys' fees and the near \$16,000,000.00 fund set aside for costs and administration. Nevertheless, the CCC seeks 5% of the monetary award of each retired player. The inherent contradiction of this position yields an absurd result. The CCC pleads the immense effort and common benefits bestowed upon the Class members as justification of its \$112,500,000.00 fee award. To justify the size of that fee award based upon the time actually spent, there is little left that the CCC can claim that would justify a substantial set aside.

The traditional arguments in favor of a set-aside will focus on future work, but in this case that work is such that it was fully known at the time the settlement was reached. If the CCC has truly bestowed an innovative common benefit where "not a penny" of the monetary awards is used for payment of CCC fees, it could and should have negotiated that amount to be paid by NFL Parties. The effect is that should the Court acquiesce and grant a 5% set-aside on the announced "common fund benefit" of \$950,000,000.00, the CCC would realize an award of fees and costs of \$175,925,000.00 (initial attorneys' fees of \$112,500,000.00, Notice Costs of \$4,000,000.00, Claims Administration fees and costs of \$11,925,000.00 and potential Set-Aside fees of \$47,500,000.00). With that set aside, a full 27% of that enormous fee would be chargeable to the individual Class Members. With such a fee charged to the class members, there can hardly be any position more contrary to the argument that the settlement is an "innovative and ground breaking structure...."

As stated by others objecting to the set-aside and hereby incorporated by reference, "In arguing that the Court should award the Set-Aside over and above the \$128,500,000.00 attorneys' fee Notice Costs and Administrative Costs award, the CCC cites very nebulous and sundry "labor" to be performed by the CCC in administration of the claims process. The CCC, however, has not shown how that labor is in any way different than that for which the CCC will have already been compensated by the over \$128.5 million figure. Analyzing the affidavits in support of the CCC's Petition, moreover, any observer can readily see that the "Administrative Costs" are not only speculative, but that the CCC uses those same costs arguments on which to base its claim that additional monies are needed from a Set-Aside to ensure the smooth administration of the Settlement structure. This can best be described as a "triple dip.""

Both the CCC and the NFL Defendants were in the best position to know what labor would be necessary in the creation and maintenance of the claims process infrastructure. To allow both sides to proclaim an innovative settlement has been reached and not a penny is being paid to the lawyers is contradicted by the request for a set-aside. There is no innovative settlement where not a penny is spent when a set aside is ordered. To now request additional fees at this very early stage of the process (fees for which provision has already apparently been made in light of the award of \$11,925,000 for Administration Costs) would be to the detriment of the individual Class Members.

VII. <u>CONCLUSION</u>

Until such time as the CCC puts forth a detailed plan and cost statement with time for discovery by any objecting party, the request for a 5% set aside should be denied, without prejudice. Instead, unless the CCC can agree to set aside an amount it fairly believes will cover those future expenses from the defined fee award of \$112,500,000.00, until such time as the

request for a set aside can be fairly heard, the trial Court should exercise its authority to appoint a special master to investigate the propriety and fairness of the defined fee award to ensure that no member of the CCC is unjustly enriched or undercompensated as the case may be. As noted earlier, the set aside requested in this matter could be \$47 Million. As the Court has been provided with no real idea of what those future expenses may be, it is worth noting that only \$875,000.00 of the common benefit fee fund was deemed necessary to compensate those counsel who continued to perform common benefit work in Nuvaring products liability litigation. See In re Nuvaring Products Liability Litigation, No. 4:08 MDL 1964 RWS, 2014 WL 7271959, at Page 6 (December 18, 2014). In the interim, the trial Court should also encourage counsel to work together to ensure that each retired NFL Player has the counsel of his choice to submit his claim without undue interference by other counsel, particularly those counsel seeking a share of the defined benefit fee award.

WHEREFORE, the undersigned respectfully requests that this Honorable Court deny the request for a 5% set aside without prejudice. The defined benefit fee award should be approved with a sufficient reserve that the CCC believes is necessary to hold until such time as the CCC can prepare a detailed plan of expense, the parties should be provided the opportunity to conduct any reasonable discovery to determine whether a set aside is actually necessary or should be paid under the defined fee award, from any set aside, or any combination thereof, and all other relief that is just and equitable.³

³ It is somewhat unclear from the Notice to the Class Members pursuant to the March 8, 2017, Order of this Court [ECF Docket No. 7260], whether certain requirements like the signature of each player is required for a player's individual objection or for those objections filed on their behalf by counsel. In the event the latter is required, the undersigned seek leave from those requirements because of the time involved and the number of players represented or an extension of time to obtain that signature or any other such compliance if any is deemed necessary for this pleading.

DECLARATION

The undersigned swear their representation of each Settlement Class Member (See Exhibit "A" attached hereto) on whose behalf this objection is being filed.

Dated: March 27, 2017

/s/ Heather N. Barnes
HEATHER N. BARNES, ESQ.
C. STEVEN YERRID, ESQ
THE YERRID LAW FIRM
NEUROCOGNITIVE FOOTBALL LAWYERS, PLLC
101 E. Kennedy Boulevard, Suite 3910
Tampa, FL 33602
(813) 222-8222 (telephone)
(813) 222-8224 (telefax)
hbarnes@yerridlaw.com
cjameson@yerridlaw.com
Florida Bar No. 207594
Florida Bar No. 85522

and

THEODORE "TED" E. KARATINOS, ESQ.
HOLLIDAY KARATINOS LAW FIRM, PLLC
NEUROCOGNITIVE FOOTBALL LAWYERS, PLLC
722 E. Fletcher Avenue
Tampa, FL 33612
(813) 975-4444 (telephone)
(813) 975-4445 (telefax)
tedkaratinos@helpinginjuredpeople.com
ko@gibbsandparnell.com
Florida Bar No. 983209

and

THOMAS E. PARNELL, ESQ.
GIBBS AND PARNELL, P.A.
NEUROCOGNITIVE FOOTBALL LAWYERS, PLLC
722 E. Fletcher Avenue
Tampa, FL 33612
(813) 975-4444 (telephone)
(813) 975-4445 (telefax)
tomparnell5@aol.com
Florida Bar No. 441988

and

JEFFREY D. MURPHY, ESQ.
JEFFREY D. MURPHY, P.A.
NEUROCOGNITIVE FOOTBALL LAWYERS, PLLC
800 W. De Leon Street
Tampa, FL 33606-2722
(813) 443-5553 (telephone)
(813) 436-5190 (telefax)
Florida Bar No. 860808

CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2017 I caused the foregoing Objection and Memorandum in Opposition to Co-Lead Counsel's Petition for an Award of Attorneys' Fees, Reimbursement of Costs and Expenses, Adoption of Set Aside of Each Monetary Award and Other Relief to be electronically foiled with the United States District Court for the Eastern District of Pennsylvania via the Court's CM/ECF system, and that the filing is available for downloading and viewing from the electronic court filing system by counsel for all parties.

/s/ Heather N. Barnes
HEATHER N. BARNES, ESQ.
THE YERRID LAW FIRM

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL	8	
LEAGUE PLAYERS' CONCUSSION	§	
LITIGATION	§	
	_ §	No. 12-md-2323 (AB)
	§	
	§	MDL No. 2323
THIS DOCUMENT RELATES TO:	§	
ALL ACTIONS	§	

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RESPONSE IN OPPOSITION AND OBJECTIONS TO CO-LEAD CLASS COUNSELS' PETITION FOR AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF COSTS AND EXPENSES, ADOPTION OF A SET-ASIDE OF FIVE PERCENT OF EACH MONETARY AWARD AND DERIVATIVE CLAIMANT AWARD, AND CASE CONTRIBUTION AWARDS TO CLASS REPRESENTATIVES

Settlement Class Members Melvin Aldridge, Trevor Cobb, Jerry W. Davis, Michael Dumas, Corris Ervin, Robert Evans, Anthony Guillory, Wilmer K. Hicks, Jr., Richard Johnson, Ryan McCoy, Emanuel McNeil, Robert Pollard, Frankie Smith, Tyrone Smith, James A. Young Sr., and Baldwin Malcom Frank (collectively, the "Alexander Objectors")¹ file this Response in Opposition and Objections to Co-Lead Class Counsels' Petition for Award of Attorneys' Fees, Reimbursement of Costs and Expenses, Adoption of a Set-Aside of Five Percent of Each Monetary Award and Derivative Claimant Award, and Case Contribution Awards to Class Representatives (the "Petition") (ECF No. 7151). In short, Co-

¹ A Declaration of Representation is attached hereto as Exhibit A.

Lead Counsels' Petition is (i) premature; (ii) conclusory and lacking in substantiating data and evidence; and (iii) based on guesswork and flawed methodologies. For these reasons, and the reasons more fully set forth in the accompanying memorandum of law, the Court should deny or defer Co-Lead Counsels' Petition.

Date: March 27, 2017 Respectfully Submitted,

Mickey Washington

Texas State Bar No.: 24039233

WASHINGTON & ASSOCIATES, PLLC

1314 Texas Ave., Suite 811

Houston, Texas 77002

Telephone: (713) 225-1838

Facsimile: (713) 225-1866

Email: mw@mickeywashington.com

James Carlos Canady

Texas State Bar No.: 24034357 THE CANADY LAW FIRM 5020 Montrose Blvd., Suite 800

Houston, TX 77006

Telephone: (713) 284-5204 Facsimile: (713) 284-5250

Email: ccanady@canadylawfirm.com

/s/ Lance H. Lubel

Lance H. Lubel

Texas State Bar No.: 12651125

Adam Voyles

Texas State Bar No.: 24003121

Justin R. Goodman

Texas State Bar No.: 24036660

LUBEL VOYLES LLP

Montrose Blvd., Suite 800

Houston, TX 77006

Telephone: (713) 284-5200

Facsimile: (713) 284-5250

Email: lance@lubelvoyles.com

adam@lubelvoyles.com

jgoodman@lubelvoyles.com

Attorneys for Melvin Aldridge, Trevor Cobb, Jerry W. Davis, Michael Dumas, Corris Ervin, Robert Evans, Anthony Guillory, Wilmer K. Hicks, Jr., Richard Johnson, Ryan McCoy, Emanuel McNeil, Robert Pollard, Frankie Smith, Tyrone Smith, James A. Young Sr., and Baldwin Malcom Frank

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on all counsel of record via the Court's ECF system on March 27, 2017.

/s/ Justin R. Goodman
Justin R. Goodman

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION LITIGATION	8 8 8	
	- § - \$	No. 12-md-2323 (AB)
	§	MDL No. 2323
THIS DOCUMENT RELATES TO:	8	
ALL ACTIONS	§	

Memorandum of Law in Support of the Alexander Objector's Objections to and in Opposition to Co-Lead Class Counsel's Petition for an Award of Attorneys' Fees Reimbursement of Costs and Expenses, Adoption of a set-Aside of Each Monetary Award and Derivative Claimant Award, and Case Contribution Awards for Class Representatives

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- A. Declaration of Kenneth G. McCoin, Ph.d., C.F.A.
- B. July 25, 2016, Letter from Christopher A. Seeger.

I. SUMMARY

A. The Players Should Go First

This Court approved a Class Action for the benefit of brain-injured former NFL Football Players. Not one football player has been or will be paid any money from that Settlement until he (a) registers and waits for a Registration Determination; ¹ (b) submits a "sufficient" and "complete" claims package (once Class Counsel and the NFL determine what must be included) demonstrating a Qualifying Diagnosis by a Qualified MAF Physician (once the Claims Administrator establishes a list of such physicians)² (c) waits through a potential audit of his claim; ³ (d) waits through the claim determination process; ⁴ (e) waits through any appeal of

¹ Article IV of the Settlement sets forth the Registration process and provides that the Claims Administrator must "issue a favorable or adverse Notice of Registration Determination."

² Article VIII sets forth the submission and review of claims packages procedure. Section 8.2(a) assigned Co-Lead Class Counsel and Counsel for the NFL Parties as responsible for determining the necessary content of such package. Section 6.5 assigns responsibility for establishing and maintaining a list of Qualified MAF Physicians to the Claims Administrator. Section 8.4(a) contemplates a Preliminary Review by the Claims Administrator for sufficiency and completeness.

³ Section 10.3(c) requires the Claims Administrator to audit "ten percent (10%) of the total qualifying Claim Packages and Derivative Claim Packages on a monthly basis and, under Section 10.3(h), monetary payments will not proceed until and unless the audit is complete and "there has not been a misrepresentation, omission, or concealment of a material fact."

⁴ The Claims Administration review process, under Section 8.6 includes verification and investigation of "facts and details of any aspect of the claim package" for any claimant, including a demand for additional documentation.

the Claims Administrator determination; ⁵ and (f) waits through the resolution of any liens arising from his medical care. ⁶ These injured NFL players have a lot of work and waiting ahead of them before they will see any benefit from this Settlement. But, the lawyers that the Court appointed to act in these football players best interest, lawyers whose fees are contingent upon successfully obtaining a benefit for the football players, want to leap ahead of their injured clients and be paid immediately. The lawyers don't want to be paid for the work they have performed. Instead, the lawyers want to be paid a percentage of the amount of the NFL Football Players benefits that are not yet known and not yet paid. The Court should deny the Petition. The injured players should get their money first.

B. <u>Class Counsel Wants "Contingent" Fees, a Bonus and **Future** Fees</u> Before Success Can Be Declared.

The Court should deny or defer this petition for fees. Class Counsel and the seventy-five attorneys they have designated to assist them seek \$112.5 million in attorneys' fees and reimbursement of costs and out-of-

⁵ Section 9.5 permits an appeal by not only the Settlement Class Member, but also Co-Lead Class Counsel and the NFL Parties of any Claims Administrator determination of (a) entitlement to a Monetary Award or (b) the calculation of a Monetary Award.

⁶ Article XI appoints a separate Lien Resolution Administrator to establish procedures to identify and resolve liens arising third party payments (i.e. Medicare) of the players' obligations. Section 11.3(g) states that "the Claims Administrator "will not pay any Monetary Award to a Settlement Class Member" prior to a determination of the amount needed to reimburse or satisfy the liens and a "determination of the "holdback" amount to be deducted from the Monetary Award.

pocket expenses. Almost \$107,000,000 of that sum is the attorneys' fee request. They further ask this Court to immediately hold back 5%, or the maximum allowed under the Settlement, of every award under this Settlement to prospectively pay their future fees. Thus, Class Counsel asks this Court to approve an award of and Class Counsel's distribution of approximately \$160 million in attorneys' fees – all before a single Class Member has enjoyed a single dollar of recovery from this Settlement. Any Petition for a percentage of the recovery is premature.

C. Class Counsel's Fee Petition is Unsubstantiated.

The Court should deny this petition for fees for lack of any substantiating data or evidence from which this Court could conduct an appropriate analysis. Under this Settlement, any request for money submitted by a Class Member, the Claims Administrator, the Special Master, the Lien Resolution Administrator must be reasonable and substantiated. But, Class Counsel submits the fee petition asking this Court to "review" and approve the fees and expenses, without supplying anything to review. There is no non-speculative data to support the computation of the "size of the fund" and the "number of persons benefited" and, therefore even Class

⁷ Based upon Class-Counsel's unsupported guess that the Settlement will pay out \$950,000,000 over 65 years, that is an additional fee request of \$45,470 million, or \$25.9 million discounted to present value. *See* Declaration of Kenneth G. McCoin, Ph.d., C.F.A., attached hereto as Alexander fee objectors Exhibit A.

Counsel's "constructive common fund" is guesswork. And, there is no evidence from which the Court could conduct a Lodestar Check of a percentage-of-the-recovery (POR") award. None of the attorneys have submitted a single daily time record to support the 50,912.39 claimed hours of work, though such attorneys were ordered to maintain those records and Class Counsel indicates they exist. None of the attorneys have submitted books, records, vouchers or cancelled checks to support the millions in expenses incurred, though such attorneys were ordered to maintain those records and Class Counsel indicates they exist. Not a single attorney-fee declaration provided to this Court even avers that the fees incurred are reasonable, let alone not duplicative. And, seeking all of the attorneys' fees ever to be paid by the NFL, Class Counsel offers no explanation for soliciting and then withholding the common-benefit submissions from objecting counsel. The Petition is, in this form, conclusory, unsupported. and unfair.

D. <u>Class Counsel's Present Assessment that Benefits Obtained for Injured NFL Players will be Over One Billion Dollars is a Guess.</u>

The Court should deny this petition for fees that rests almost entirely upon a valuation of the Monetary Award Fund that is flawed in at least three separate ways. Class Counsel alleges that it has computed the value using

inapplicable, hearsay⁸ actuarial figures that do not support the computation. The projected Class Counsel's projected Settlement participation comes from Class Counsel's lay participation assumptions founded upon an unsound methodologically; that is, the number of "visitors" to the Settlement Website. Finally, Class Counsel's valuation of the Monetary Award Fund is set forth in future dollars though its own expert has acknowledged that only approximately half of the projected compensation will be paid in the first 20 years of the operation of the settlement; yet, Class Counsel makes no effort to convert the future dollars into present value. The Petition contains fatal, analytical flaws.

Therefore, the Alexander objectors detail these objections and additional objections below to the best of their ability, given the lack of information supplied.

Class Counsel's Petition should be rejected and

⁸ Co-Lead Class Counsel adopts and repeats as his own the computations of Dr. Thomas Vasquez, Paragraphs 44 60, Declaration of Christopher A. Seeger (ECF No. 7151-2). Mr. Seeger is not qualified to render this opinion. And, Dr. Vasquez' February 9, 2014 report of projections of program participation and potential value is (a) itself based upon lay speculation of participation from Class Counsel (b) unreliable methodology; and (c) is wholly irrelevant to a Settlement proposed, reviewed, and approved **after** the report was generated.

⁹ The February 21, 2017 Motion for Entry of Case Management Order Governing Applications for Attorneys Fee; Cost Reimbursements; and Future Fee Set-Aside, asking this Court to establish a schedule for filing and vetting common-benefit fee petitions in accordance with Article XXI Of the Settlement remains pending. *See* ECF No. 7176. The Alexander Objectors reurge the Motion and object to the Court's March 8, 2017, Order scheduling "all objections or other responses" be filed without the benefit of such discovery or data. Without access to the underlying data, the Alexander objectors do not

reconsidered no earlier than the actual award of Settlement funds to the first registrants and upon no less documentation than Class Counsel committed to in September, 2012¹⁰, to maintain contemporaneously for later submission in support of a few request.¹¹

II. ARGUMENT

A. The Court should deny the Petition as Premature

When the Court approved this Settlement and the Third Circuit upheld the Court's decision, one of the Settlement features was the "attorney-feedeferral procedure." *In re National Football League Players Concussion Injury Litigation*, 821 F.3d 410, 444 (3d Cir. 2016). Objectors argued that deferring consideration of the attorney fee was error; but, the objection was overruled and attorney-fee-deferral is the procedure for this Settlement. *Id*.

have a meaningful opportunity to object; the most that objectors are able to do is point out the conclusory, unsubstantiated nature of this fee petition. By way of example, the conclusory "hours" submission of seventy-one separate lawyers provides the Court no possible method to ensure that there has been no duplication of effort, as the Court must do. The Court must have a way to determine whether the hours billed were redundant, excessive, or otherwise unnecessary. *See e.g. Stetson v. Grissom*, 821 F.3d 1157 (9th Cir. 2016). There is nothing submitted from which this Court could craft the requisite findings of fact and conclusions of law. Fed. R. Civ. P. 23(h)(2)-(3).

¹⁰ See Plaintiffs' Uncontested Motion for Order Establishing a Time and Expense Reporting Protocol and Appointing Auditor, ECF No. 3698, along with proposed reporting form. See also Case Management Order No. 5, ECF No. 3710.

¹¹ Upon Class Counsel's unopposed request, this Court entered Case Management Order No. 5 in September, 2012, that established a protocol for class counsel to maintain "contemporaneous time and expense records" which document compensable time and expenses, in categories designated by the Court, within limitations specified by the Court.

Now, however, Class Counsel is not prepared to wait as the Third Circuit contemplated.

Specifically, reviewing the settlement in this case, the Third Circuit noted the 7 years that elapsed between the approval of the settlement and the interim and final fee awards of the *Diet Drug* litigation. *Id.*, citing *In re Diet* Drugs Prods. Liab. Litig. 582 F.3d 524, 534-35 (3d Cir. 2009). In fact, the Diet Drug fee award was not made until the Settlement Trust had paid out over \$300 million in benefits per year to the class per year. See In re Diet Drugs Prods. Liab. Litig., 383 Fed. Appx. 242 (3d Cir. 2010). The Third Circuit also noted the procedure for deferral of fees in the Deepwater Horizon litigation. In re National Football League Players Concussion Injury Litigation, 821 F.3d at 445, citing In re Oil Spill by Oil Rig Deepwater Horizon in Gulf of Mexico, 910 F. Supp. 2d 891, 918 (E.D.La. 2012), aff'd sub nom In re Deepwater Horizon, 739 F.3d 790 (5th Cir. 2014). Ultimately, *Deepwater Horizon* counsel waited four years and until 9 billion in Settlement benefits were paid, to present their common benefit fees. In re Oil Spill by Oil Rig Deepwater Horizon in Gulf of Mexico, 2:10md-02179, ECF No. 21849 (October 28, 2016).

Class Counsel's failure to cite or distinguish *In re Baby Products*Antitrust Litigation, 708 F.3d 163 (3d Cir. 2013) on the timing of a fee

award is troubling. Vacating an award of class attorneys' fees, the Third Circuit stated:

In evaluating a fee award, [the district court] should begin by determining with reasonable accuracy the distribution of funds that will result from the claims process. This may require it "to delay a final assessment of the fee award to withhold all or a substantial part of the fee until the distribution process is complete."

Id. at 179, citing Federal Judicial Center, Manual for Complex Litigation § 21.71 (4th ed. 2008).

Here, the distribution process for the Settlement has not begun; the registration period is barely open and will not close until August 7, 2017. It is not known how many class members will participate in the program. Therefore, Class Counsel is jumping the gun on its request for (1) a percentage of "the recovery" as a fee; and (2) a set-aside for future anticipated participation without basic information that is critical to this Court's ability to determine "with reasonable accuracy the distribution of funds that will result from the claims process." *Id*.

It would seem axiomatic that, as this Court has observed, "a district court must have specific details about the value of the settlement to class members" including the amount that will be distributed. *McDonough v. Toys* "R" Us, Inc., 80 F. Supp. 3d 626, 640, 650-51 (E.D. Pa. 2015) (Brody, J.) (distinguishing the subject settlement from the *In re Baby Products*

settlement on the basis that the subject settlement allowed the Court to know, not guess, "the total value of claims and the exact amount that will be distributed"). Class Counsel does not and cannot argue that the Settlement in this case is like the sum-certain-distribution in *McDonough*.

The Third Circuit draws its class fee procedure largely from the Manual for Complex Litigation. The Manual speaks to (a) eligibility for Court-awarded fees; (b) proceedings to award Fees; (c) motions for attorney fees; and (d) judicial review, hearing and order. See generally, Federal Judicial Center, Manual for Complex Litigation, § 21.71 (4th ed. 2008). The Manual does not suggest that the first counsel to seek a common benefit fee is the first served, or that certain counsel get to determine the eligibility of other counsel for common benefit fees. The Manual says that the determination and allocation of common benefit fees is a Court responsibility that must be administered through a judicial process based on well-established jurisprudence. Consistent with the Manual, counsel should wait until a history of benefits is established just like the *Diet Drug* lawyers waited and just like the *Deepwater Horizon* lawyers waited – because only then will the Court have the ability to determine with any reasonable accuracy the distribution of funds that will occur in this claims process.

Finally, it is of note that Class Counsel would not be harmed by

waiting inasmuch as "interest is properly included in the monetary value of the original Settlement Agreement." *In re Diet Drugs*, 553 F. Supp. 2d 442, 470 (E.D. Pa 2008), citing *In re Ampicillin Antitrust Litig.*, 526 F. Supp. 494, 495 n. 2 (D.D.C. 1981).

The fee petition is premature, particularly as it seeks a percentage of the recovery. And, the procedure by which Class Counsel urges its resolution (first come; first and only served) does not show adequate respect for the quantum of information and the level of review required of the Court by the Third Circuit. The Court should deny the Petition as premature.

B. The Court should deny the Petition for lack of substantiating data or evidence.

The Court is required to conduct "a through judicial review of [the] fee applications" in this class action. *See In re Prudential Ins. Co. American Sales Practice Litigation Agent Actions*, 148 F.3d 283, 333 (3d Cir. 1998). The Court cannot conduct such thorough review because Class Counsel has not submitted anything but hours and rates to justify a Lodestar check.

A lodestar analysis is strongly presumed to yield a reasonable fee, but it is founded upon (1) the number of hours **reasonably** expended on the litigation – multiplied by – (2) a reasonable hourly rate. *See Washington v. Phila. City Ct. of Common Pleas*, 89 F.3d 1031, 1035 (3d Cir. 1996) (emphasis supplied). "[A] district court may not set attorneys' fees based

upon a generalized sense of what is customary or proper, but rather must rely upon the record." *Coleman v. Kaye*, 87 F.3d 1491, 1510 (3d Cir. 1996).

The Third Circuit is clear on what is not a reasonable fee. A court should not compensate fees that are excessive, redundant or otherwise unnecessary. *See Rose v. Dellarciprete*, 892 F.2d 1177, 1183 (3d Cir. 1990). Class Counsel cursorily assures the Court that the petition contains "[o]nly time and expenses that inured to the common benefit of the Class, and advanced the claims resolved in the Settlement." But, Class Counsel's assurance is not evidence.

The Court needs to know what the attorneys were doing for all of the 50,000 hours claimed in order to know that the fees are not redundant or unnecessary. But, a review of the declarations submitted in connection with Class Counsel's Petition will not provide that information. The Declaration of Frederick Schenk (Dkt. No. 7151-25) is the only declaration that provides any detail about the time spent. Mr. Schenk's extra information reveals the necessity of a redundancy check.

Mr. Schenk states that he not only attended meetings in New York where invitations had been extended to all plaintiff's attorneys who had clients or who wanted to learn more about the proposed class action, but also most of the "many scheduled phone conference calls in anticipation of in

preparation of that event." Mr. Schenk provides no information about whether his participation was for a "client" or for the Class Members. Mr. Schenk also states that he attended the preemption oral arguments, but does not explain how many hours are billed for attending argument; why his attendance benefitted the Class Members; and why his attendance was essential inasmuch as he is not listed as one of the many counsel for Appellees on appeal.

In short, despite the few additional details provided by Mr. Schenk's declaration, it suffers the same infirmity of all the rest – it is a conclusory presentation of hours (no date or task detail) and it is without any explanation of why incurring the fee was reasonable (not redundant), in light of the other counsel who were performing the same task, or how his presence benefitted the Class Members.

Class Counsel has acknowledged that the underlying data is necessary to a fee award and, in fact, that contemporaneously maintaining that data is necessary to insure the integrity of the review. Specifically, on September 7, 2012 Class Counsel filed an Uncontested Motion for Order Establishing a Time and Expense Reporting Protocol and Appointing Auditor, stating:

Entry now of an Order establishing a protocol governing permissible common benefit time and expenses invested in this matter and requiring periodic reporting by plaintiffs' counsel conducting such common-benefit work will help ensure only

reasonable and necessary fees and costs inuring to the benefit of all plaintiffs are incurred. Establishing such guidelines early in the course of this litigation, even prior to the establishment of a Common Benefit Fund, if any, will help ensure that staffing levels for common-benefit work are appropriate and common-benefit time and expenses are reasonable, and will reduce the risk of later conflict over fees and expenses. See Manual for Complex Litigation (Fourth) §§14.212, 14.213 (2011). Further, imposing record-keeping procedures and requiring the submission of periodic reports "encourages lawyers to maintain records adequate for the Court's purposes," and facilitates Court review of later-submitted fee petitions, if any. See id. §§ 14.212–214.

See ECF No. 3698, p. 3, ¶ 8 (emphasis supplied).

Other similar class actions follow a formula similar to that of Case Management Order No. 5. For example, the *In Re Diet Drugs* Court set forth the following fee protocol required time and expense records be submitted to an auditor who then reviewed those records for compliance with Court-established criteria and then common benefit counsel submitted "verified copies of time records which were maintained contemporaneously... throughout the litigation" resulting in a thirty-volume compendium [] of fee presentations." 582 F.3d at 533. Here, by contrast, Class Counsel has not submitted any data maintained and prepared under Case Management Order No. 5, though court-appointed Class Counsel Dianne M. Nast indicates in her Declaration (ECF No. 7151-9) that she performed the legal service of "drafting and administering Case Management Order No. 5 re:

Submission of Plaintiffs' Time and Expense Reports, including quarterly collection of reports."

The Petition is inadequate without that data to "ensure only reasonable and necessary fees and costs inuring to the benefit of all plaintiffs [were] incurred." The Petition should be denied.

C. Because Class Counsel seek the entire 112.5 million attorneys' fee fund, the Petition Should be denied, without Prejudice, or abated to consider the Petition in conjunction with all other Petitions for Common-Benefit Fees.

It is well-settled that attorneys who achieve a benefit for class members are entitled to compensation for their services. *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) ("this Court has recognized consistently that a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole"). This rule "is based on the equitable notion that those who have benefited from litigation should share in its costs." *Sutton v. Bernard*, 504 F.3d 688, 692 (7th Cir.2007), citing *In re Synthroid Mktg. Litig.*, 264 F.3d 712, 718 (7th Cir.2001).

Yet, Class Counsel improperly asks the Court to consider its Petition to the exclusion of a fee petition by any other attorney contributing to the common benefit of the Class. In response, the Court has established a schedule for Co-Lead Class Counsel's Petition, alone. *See* March 8, 2017,

order (ECF No. 7261). Under the circumstances of this case, the preference for Class Counsel's Petition operates to deny due process to those who have relied upon the language of the Settlement Agreement and Final Judgment-the Class Members and their counsel.

First, by the Petition, Class Counsel seeks all of the \$112.5 million in fees available.

Second, Class Counsel has argued, incorrectly, that other counsel have waived their right to fees. But, this Court previously ordered that "motions for an award of attorneys' fees and reasonably incurred costs, as contemplated by the Parties in Section 21.1 of the Settlement Agreement, may be filed at **an appropriate time to be determined by the Court**, after the Effective Date of the Settlement Agreement." *See* Paragraph 15 of this Court's May 8, 2015, Amended Final Order and Judgment. Thus, this Court held that it alone would determine the appropriate time for such motions (and, necessarily, that the Local Rules of the Eastern District of Pennsylvania would not determine the deadlines for those motions).

Class Counsel cannot, by filing its Petition for Fees or by invoking the Local Rules¹², circumvent this Court's decision that the Court alone will

¹² Class Counsel suggests that upon its filing of the Petition for Fees, E.D. Pa. Local Rule 7.1(c) engaged to establish the "appropriate time" for parties to respond to the motion. Again, this Court has not determined the appropriate time for filing the motion

determine the appropriate timeframe and process for seeking and allocating common benefit fees. If Class Counsel's Petition for Fees was not foreclosed by Federal Rule of Civil Procedure 54, ¹³ then no one else's petition should be foreclosed. ¹⁴ At the same time, if the time has expired for attorneys who benefited the Class to seek reimbursement of fees and expenses, then Class Counsel's Petition for Fees likewise should be stricken as untimely.

Third, Class Counsel has, as an alternative position, suggested that the Court hold back a small portion of the fees for the consideration of two other fee petitions currently on file but not set for briefing. *See* Declaration of C. Seeger, paragraph 100 ("With respect to the fee petitions filed (or to be filed) by counsel for the Faneca and Joes Objectors (*see* ECF No. 7070, 7116), I respectfully propose that the Court direct a segregation or set-aside form the Attorneys' Fees Qualified Settlement Fund (see paragraph 121 n. 10, infra) of whatever amount it deems appropriate pending resolution of

yet. It is impossible for the Alexander objectors to be late, as measured by a motion that was prematurely filed in the first place.

¹³ Federal Rule of Civil Procedure 54(d)(2), if it applies, required a party to make a claims for attorneys' fees no later than 14 days after the entry of judgment. Class Counsel did not.

¹⁴ The Alexander Objectors respectfully renew their request that the Court establish a schedule for all attorneys to submit petitions, in equity, seeking reimbursement for reasonable efforts that benefitted all Plaintiffs.

those petitions, but otherwise permit the allocation and distribution of fees and reimbursement of expenses among non-objectors' counsel"). 15

Even this alternative suggestion would reward a race to the Courthouse in disregard of this Court's stated intent to establish the "appropriate time" for fee petitions; that is a stated intent upon which the Alexander objectors' counsel relied. To date, this Court has only determined the appropriate time for (a) objections and responses to Co-Lead Counsel's Petition and (b) Co-Lead Class Counsel's omnibus reply. The Court has not established an appropriate time for other common-benefit fee applications. But, in light of the limited attorneys' fee fund, the Court should entertain all fee petitions at the same time.

Finally, to the extent that Class Counsel urges that all requests for common-benefit fees were submitted or were to be submitted by and through Class Counsel, the Alexander objectors specifically object to Class Counsel's failure to include their common-benefit submission and ask that Class Counsel be estopped from taking such a position for the reasons that

¹⁵ The Alexander objectors object to Class Counsel's unvarnished attempt to unilaterally deprive objectors' counsel of either an appropriate common-benefit fee or an appropriate chance to seek a common-benefit fee. In the Declaration of C. Seeger, paragraph 75, Class Counsel reveals the common-benefit methodology: "[a]ttorneys and staff working at my direction and under my supervision "collected and reviewed submissions of common benefit time and reimbursable costs and expenses submitted by the PEC, PSC, and by other firms **to which I had assigned common benefit work**." (emphasis supplied).

follow.

The Settlement is silent on how "entitled attorneys" are to be identified, but it does not authorize Class Counsel to unilaterally decide who is and who is not an "entitled attorney." Class counsel apparently recognized in July, 2016 that "entitled attorneys" are those attorneys who performed a service or incurred an expense that benefitted the entire class. *See* July 25, 2016 letter from C. Seeger, Exhibit B. Thus, Class Counsel set itself on a course to accumulate all "common benefit" fees and expenses. In fact, Class Counsel was very clear about the timeline for "common benefit": It must be incurred between the inception of the MDL (i.e. "post-MDL") and "July 15, 2016." *See id.* It was those expenses incurred "for the common benefit of all class members" and not "in connection with your representation of individual clients." *See id.*

Class Counsel has now adopted the position that "eligible attorneys" are those attorneys unilaterally, but secretly, determined by Class Counsel as worthy of inclusion in the Petition for Fees filed by Class Counsel. If Class Counsel did not choose to include a particular attorney's fees and expenses in the Petition, so the argument goes, that attorney is not an "eligible attorney." Class Counsel states that the fee petition "includes the law firms that have done important common benefit work for the litigation, approved

by Co-Lead Class Counsel."¹⁶ Notably, not one of the "plaintiffs' counsel" included an objectors' plaintiffs' counsel.

But it was Class Counsel who solicited the undersigned's report for common benefit fees. Specifically, on July 25, 2016, Class Counsel communicated with the Alexander Objectors' counsel and stated:

"We now turn our attention to preparing the petition for award of class attorneys' fees and expenses (the "Petition")"

"Please submit to me a time and expense report setting forth your firm's professional time and expenses incurred for the common benefit of all class members."

"Time and expenses incurred in connection with your representation of individual clients should not be included in your submission."

"Accuracy is essential as every time and expenses submission maybe subject to an audit."

"I will follow up by letter if anything else is needed from you for the Petition."

See July 25, 2016 Letter from Mr. Seeger (emphasis supplied), attached as Exhibit B.

Based on the letter, the Alexander Objector's counsel submitted their time and expenses incurred "for the common benefit of all class members." They received no follow up from Class Counsel that indicated that something else was needed. They were unaware that Class Counsel would

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¹⁶ Class Counsel Memorandum of Law in support of its Petition for Fees, p. 2 fn 4.

not present their claim for common benefit fees and expenses for the Court's consideration or include it in their own fee petition until it received a copy of Class Counsel's Petition for Fees. Based upon Class Counsel's representation that it was aggregating "common benefit" time and expenses, the Alexander Objectors relied upon Class Counsel to submit their counsel's requested time and expenses.

This Court did not delegate the authority to Class Counsel to determine whether a particular attorney conferred a common benefit on the Class. The Court's only order, as described above, made clear simply that the Court itself would be in charge of this process – not Class Counsel. Had the Court delegated some processing role to Class Counsel, the Court would still be required to perform a rigorous review of the request.¹⁷

In light of (a) the Court's statement that it would set the appropriate time for fee petition matters; (b) the limited fee fund available; (c) Class Counsel's unfulfilled representation that it would submit counsel's common benefit fee data to the Court; and (d) the equitable and due process right of

¹⁷ See In re Pet Food Products Liability Litigation, 629 F.3d 333, 359 (3d Cir. 2010) (Weiss, J., concurring and dissenting) (noting that the Third Circuit has "held that even in the absence of an objection a 'thorough review of fee applications is required in all class action settlements' in order 'to detect not only actual abuse caused by attorney-class conflict, but also 'potential public misunderstandings [that such conflict] may cultivate) (internal citations omitted).

the Alexander Objectors to have an opportunity to submit a common benefit fee petition, the Court should deny the Petition and schedule all Petitions for consideration on a schedule established by the Court.

D. <u>The Alexander Objectors object to the Percentage-of-the-Recovery</u>
(POR) methodology of Class Counsel's Petition for An Award of Fees
Because the Recovery is Objectively Incalculable.

Class Counsel concedes that this case is not a traditional common fund; they do so because this Court has already held that it is not a common fund. *See In re National League Players' Concussion Injury Litigation*, 307 F.R.D. 351, 374 (E. D. Pa. 2015). Pivoting, Class Counsel urge this Court to treat the Settlement as a "constructive common fund" and apply a Percentage of the Recovery (POR) fee methodology anyway. The Alexander objectors object to the application of a POR fee methodology to this Settlement.

Class Counsel cannot simply cherry pick the fee methodology that provides the greatest recovery. Instead, the Third Circuit teaches that the Court must choose the methodology "corresponding" to the "sort of action the court is adjudicating. *In re General Motors Corp. Pick-Up Truck Fuel Tank Products Liability Litigation*, 55 F.3d 768, 820-821 (3d Cir. 1995).

"Courts use the percentage of recovery method in common fund cases on the theory that the class would be unjustly enriched if it did not compensate the counsel responsible for generating the valuable fund bestowed on the class." *Id.*, citing *Task Force*, 108 F.R.D. at 250. Unjust enrichment of the class would be unfair to the attorney.

Similarly, the lodestar method is often more appropriate to achieve a fair fee for the attorney. The lodestar method, which uses the number of hours reasonably expended as the starting point, has the effect of decoupling the recovery from the effort to obtain the recovery. *See id.* For that reason, the lodestar method, which is a simple fee shift, is appropriate where the litigation in which the fee was incurred is "socially beneficial"; in that way, the attorney receives "an adequate fee irrespective of the monetary value of the final relief achieved for this class." *Id.* Although the lodestar is frequently used in statutory fee-shifting class actions, it is not restricted to such circumstances.

Most important, as applicable here, the Third Circuit recognizes another circumstance in which the lodestar methodology is the most appropriate methodology for a class fee award. That is, lodestar is best when the task of calculating the benefit to the class requires "subjective evaluation." *Id*.

The district court's handling of the *Dungee v. Davison Design & Development* class action serves a great example of a circumstance where

lodestar is more appropriate when subjective evaluation would be required to value the fund. *See* __ Fed. Appx. __, 2017 WL 65549 (3d Cir. 2017). Dungee filed a class action for violations of the American Inventors Protection Act of 1999 and breach of contract. The district court rejected the percentage of the recover method requested by class counsel because "the ultimate value of the settlement depended upon the number of claims made by former customers for cash and service vouchers. *Id.* The Third Circuit upheld that choice of lodestar methodology. *Id.*

In this case, the alleged "constructive common fund" suffers the same infirmity for POR recovery that the Dungee class did: The value of lion's share of the fund – the Monetary Award Fund - depends entirely upon the ultimate number of participants. More precisely, the value of the Monetary Award Fund, uncapped and awardable over 65 years rests precariously atop subjective and speculative evaluation. In keeping with the policy underlying a POR in *In re General Motors*, it cannot be said that the Class will be unjustly enriched if a POR is not used in this case. Stated differently, if Class Counsel's guestimate about the number of participants turns out to be incorrect, it is actually Class Counsel that will be unjustly enriched by received a percentage of a hypothetical fund that is never realized.

Here, the value of the Monetary Fund Award is an unknown. Class

Counsel's own evidence establishes the inability to objectively value the Settlement at this time. Class Counsel asked Orran S. Brown, Sr. Claims Administrator, to provide an estimate of the administrative costs anticipated for this Settlement. Mr. Brown, in his declaration filed with Class Counsel's Petition, states that is it "very difficult" to project what it will cost to administer this Settlement "before we know how many Settlement Class Members will register with us, how many claims we will receive, how complete they will be, how many outcomes will be appealed, and the quantity of the many other functions we will perform in this program." 18

And, it is important to recall, that Mr. Brown's estimated administrative costs are tied directly to assumptions about the total number of registrants, not the amount of money paid by the various Settlement funds. Stated differently, Mr. Brown will need to process every registration and process every claim for benefits whether such claim is paid or not. And, Mr. Brown will not be paid his projected administrative costs. Instead, under Section 10.2(c) of the Settlement, Mr. Brown will only be paid for reasonable costs and expenses and will refund any payments made that are not reasonable.

By contrast, the value of the MAF benefits, upon which Class Counsel

¹⁸ See Declaration of Orran S. Brown, Sr., 7151-4, Paragraph 10.

seeks fees, is a function of successful claims for benefits. Class Counsel wants a percentage of the total money that will be paid. Class Counsel points repeatedly to the absence of Settlement ceiling – it is an uncapped MAF. But, Class Counsel attempts to obscure that the Settlement has a relatively low floor – the NFL is depositing only \$120 million without reversionary interest. See Settlement Section 23.3(b). After that, the NFL need only keep the Monetary Award Fund at a declining "targeted threshold." And, if the NFL Parties do not ever deposit more than \$120 million into the MAF, but the Court has awarded Class Counsel a percentage of a projected \$950 million MAF¹⁹ or the entire \$112.5 million fee fund, Class Counsel will have been unjustly enriched because nothing in the Settlement requires Class Counsel to refund attorneys' fees paid that are later determined not reasonable.

And, Class Counsel has not supplied the Court a sufficient or reliable basis to conclude that the MAF will pay \$950 million in benefits. Class

¹⁹ Class Counsel relies entirely upon a February 9, 2014 NFL Concussion Liability Forecast prepared by Dr. Thomas Vasquez for the \$950 million MAF projection, ECF No. 6167. The Alexander Objectors object to the use of this report on the basis that it is inadmissible under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) and Fed.R. Evid. 702. Specifically, the Vasquez report is not the "product of reliable principles and methods." Dr. Vasquez testifies that his methodology for projecting participation in the Settlement requires, for each compensable disease, background incidence data. There is no background incidence data for Levels 1.5 and 2 – qualifying diagnoses defined only by the Settlement itself. Dr. Vasquez offers no explanation for basis for borrowing from a different disease. For purposes of establishing the value of the MAF, the Vasquez report is not admissible and should be disregarded.

Counsel points to the February, 2014 NFL Concussion Liability Forecast prepared by Dr. Thomas Vasquez as its support. First, the Court will recall that Dr. Vasquez' report was prepared and filed in connection with an earlier, rejected version of the Settlement. Thus, the report analysis is not relevant to the approved Settlement.

But, more importantly, Dr. Vasquez' report does not provide an adequate basis to forecast total NFL player participation, for the following reason. Dr. Vasquez, when outlining his methodology, acknowledges that his potential participation forecast rests upon the background incidence of the particular compensable disease. Dr. Vasquez drew his incidence data from published literature and research as set forth in Exhibit A to that report. Not surprisingly, Exhibit A contains no published literature or research on the non-terminal neurocognitive disorders Level 1.5 and Level 2; that is because these Qualifying Diagnoses are not recognized diseases. They are creations of and defined entirely by the Settlement. Neither a Level 1.5 nor a Level 2 neurocognitive disorder appear in published literature, research or even a medical textbook. Yet, almost one-half of the NFL players Dr. Vasquez projects as eligible fall within the Qualifying Diagnosis of Level 2. See Table 2-1 (Doc. 6167, 6/71).

In sum, the percentage-of-the-recovery methodology is not available

to Class Counsel at this time because the relief awarded cannot be objectively valued. If the Court determines to move forward with Class Counsel's fee petition at this time, it should do so only on a traditional lodestar analysis with underlying data to award a presumptively reasonable fee that is not tied to the value of the fund. The Petition should be denied.

- E. Even if this Court accepts Class Counsel's constructive common fund methodology, Class Counsel is not entitled to the fees requested because its calculations of the "Size of the Fund" and the "Percentage Sought" are mathematically and economically unsound.
 - 1. Class Counsel's projected \$1.2 billion "Size of the Fund" is almost all future dollars that must be converted to present value.

Even if this Court accepts the alleged value of the fund – nearly \$1.2 billion dollars – the sum is fatally flawed for its failure to determine the present-day value of that benefit. Although Class Counsel failed to perform the computation, Class Counsel recognizes the methodological necessity for doing so. Specifically, when seeking this Court's approval of the Settlement initially, Class Counsel relied Dr. Vasquez' study, in which he concluded that "[b]ecause many of the injuries take years to develop, the compensation stream extends far into the future" and "only approximately 54% of total compensation will be paid in the first 20 years of the operation of the settlement." Thus, Dr. Vasquez converted sums claimed to be part of the settlement into present dollars.

Accepting, for the sake of argument only, the proffered size of the fund at \$1.2 billion, the present-value of the future benefits is a substantially smaller number. Specifically, Dr. Kenneth G. McCoin, Ph.d, C.FA. avers that the present-day value of the \$1.2 billion fund claimed is \$607,281,278. Dr. McCoin reaches this opinion by examining the nominal amounts set forth by Class Counsel and Dr. Vasquez's prior computation of the fund and the earnings as set in Table 2-2 of Exhibit B to Dr. Vasquez' affidavit (Doc. 6423-21), set out below. ²¹

Table 2-2
Settlement Fund Compensation Payments, Funding and Earnings
Through the Payment of the Last Compensable Claim
(\$ millions)

	Compensation			End of Period Fund
Time Period	Amount ¹	Funding	Earnings	Balance
2014 through 2018	\$292.3	\$364.0	\$25.0	\$91.6
2019 through 2023	\$78.2	\$103.7	\$28.1	\$143.8
2024 through 2028	\$95.5	\$103.7	\$38.6	\$189.0
2029 through 2038	\$178.6	\$103.7	\$103.2	\$214.0
2039 through 2048	\$167.7	\$0.0	\$72.9	\$116.2
Remaining 35 Years	\$133.3	\$0.0	\$103.4	\$80.4
Total	\$945.5	\$675.0	\$371.2	na

Using the same methodology used by Dr. Vasquez, Dr. McCoin converts the sums to present-day value.²²

Benefit	Nominal Amount		Present-Day Va	lue
Monetary Award Fund	\$945,500,000	90.4%	\$519,400,000	85.5%
Baseline Assessment	\$75,000,000	7.2%	\$68,017,007	11.2%

²⁰ See Declaration of Kenneth G. McCoin, Ph.d., C.F.A., attached hereto as Exhibit A.

²¹ See id.

²² See id.

Program				
Education Fund	\$10,000,000	1.0%	\$10,000,000	1.6%
Notice Costs	\$4,000,000	0.4%	\$4,000,000	0.7%
Claims Administration	\$11,925,000	1.1%	\$5,864,270	1.0%
Total Benefit	\$1,046,425,000	100%	\$607,281,278	100%

Because Class Counsel has neglected to perform this mathematical calculation and seeks a present fee on future dollars, the Alexander fee objectors object to Class Counsel's presentation of "the Size of the Fund" for purposes of a percentage-of-the-fund analysis.

2. Class Counsel has miscalculated the percentage applicable to the fees it requests; it is 22.8%, not 9% as alleged; under either figure, the fee is not reasonable.

Class Counsel argues that the fees requested are "approximately nine percent of the value of the total relief secured for the Class." Class Counsel is mistaken. Class Counsel arrives at a 9% figure using the \$112.5 million fee fund. But, Class Counsel ignores the 5% holdback for attorneys' fees that it is also seeking at this time.

Based upon Class Counsel's projected Monetary Award Fund, the 5% holdback of fees is \$45,470,000. Discounted to present value, that sum is \$25,970,000. When all fees sought are measured against Class Counsel's projected benefit to the Class, the fee sought is 22.8%. This percentage is well above the average fee award, particularly for a settlement of this size. *See In re Prudential Ins. Co. America Sales Practice Litigation Agent*

Actions, 148 F.3d 283, 339 (3d Cir. 1998) (Stating that the 6.7% fee, when "[c]ompared to the other large settlements examined by the district court . . . exceeds all of them by a considerable margin"). The cases examined by the district court in *In re Prudential* were:

- In re Baldwin–United Corp. Litig., 1986 WL 12195 (S.D.N.Y. June 27, 1986), (attorneys' fees of 4.1% of the \$183.8 million settlement fund);
- In re Agent Orange Prod. Liab. Litig., 611 F.Supp. 1296 (E.D.N.Y. 1985) (attorneys' fees of 5.5% fee of the \$180 million settlement fund); and
- *In re MGM Grand Hotel Fire Litig.*, 660 F.Supp. 522 (D.Nev. 1987), (attorneys' fees of 7% fee of the \$205 million settlement fund).

Citing a number of cases via footnote 29, Class Counsel suggests that 9% is "a modest percentage . . . well within the parameters for class actions fee awards in this Circuit." Class Counsel's passing reference to size of the fund and percentages is legally infirm, however. Class Counsel must address the "variables that bear on the 'similarity' of the cases." *See In re Schering-Plough Corp. Enhance Sec. Litig.*, 2013 WL 5505744 at *31 (D. N. J. Oct. 1, 2013). Most apparent in the mismatch of cases selected by Class Counsel as "comparable" are the size of the settlements at issue: \$8 million, \$25 million, \$4 million, \$39 million, \$25 million, \$8 million, \$25 million, \$17 million, \$44.5 million, \$400,000, \$4 million, \$18 million.

Class counsel has improperly relied upon cases too dissimilar to provide this Court guidance. And, for the additional reasons stated in Section II.F.1 regarding the declining percentage principle applied in the Third Circuit, the Court should reject Class Counsel's requested percentage.

- F. Even if the Court accepts Class Counsel's methodology and overlooks its mathematical errors, there are a number of additional flaws in Class Counsel's arguments in favor of the fee award.
 - 1. Because the fund Monetary Fund Award is a potentially large, uncapped and purely a function of participation, the Court should apply a declining percentage reduction and not the 2.6 "upward adjustment" of fee Class Counsel requests.

Class Counsel is upwardly enhancing its fee calculations instead of revising them downward as suggested by the Third Circuit. The Third Circuit has stated that the percentage of a recovery devoted to attorneys' fees should **decrease** as the size of the overall settlement or recovery increases. *In re Cendant Corp. PRIDES Litig.*, 264 F.3d 722, 736 (3d Cir. 2001). This "declining percentage principle" is not a bright-line rule applicable to all large settlements. *See In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 302-03 (3d Cit. 2005). It is, however, an acknowledged principal for reviewing class fees and Class Counsel dismisses the principle, urging that it "cannot genuinely be said" that the size of this Settlement is a function of the size of the class. Memo, p. 46. Class Counsel offers no support whatsoever for this statement.

In fact, \$950,000,000 of the \$1,163,425,000 benefit alleged to flow to the Class is measured entirely by an "assumed participation rate." The NFL is not depositing \$950,000,000 into a bank account. Given both the uncapped nature of the Monetary Fund Award, and the projected and assumed participation rate, this case fits squarely within the circumstance for a declining percentage. *See In re Prudential*, 148 F.3d at 339. (holding that factors such as percentage fees in other cases "should receive less weight" in a settlement approaching the size of \$1 billion and, therefore "some reduction is appropriate").

In the alternative, Class Counsel suggests that the percentage it seeks is also in line with the declining percentage principle. But, again, Class Counsel compares this case to cases that are not comparable. Class Counsel asks this Court to compare its request to "recoveries that exceed \$100 million." But, Class Counsel wants a percentage of a Settlement they claim is worth \$1,163,425,000. The four settlements to which Class Counsel points as in excess of \$100 million could be added together and the resulting fund would still not be as large as Class Counsel has estimated this fund to

The Alexander objectors object to Class Counsel's assumed rate. It is speculation arising entirely from perceived interest in this litigation. It is analytically unsound. *Daubert v. Merrell Dow Pharms., Inc.* 509 U.S. 579, 589 (1993).

be. Class counsel simply has not and cannot place its 9% requested fee – and certainly not its true 22.8% requested fee – within any range established by any court. Class Counsel asks this Court to make an award that stands alone.

More remarkable than Class Counsel's request that this Court ignore the natural application of a declining percentage principle to this case is Class Counsel's bold suggestion that its efforts should be so rewarded that a 2.6 multiplier should be applied to its unsubstantiated Lodestar fee reports. Class Counsel wants this Court to give them a bonus. But "[t]he Third Circuit uses a "strong presumption that the lodestar is a reasonable fee and that a quality multiplier should be granted only in rare and exceptional circumstances." See Student Pub. Interest Research Grp. Of N.J., Inc. v. AT&T Bell Labs, 842 F.2d 1436, 1452-53 (3d Cir. 1988) (emphasis supplied). Even excellent quality is not the threshold. *Id.*; see also Dungee v. Davison Design & Development Inc. _ Fed Appx. __, 2017 WL 65549 *2 (3d Cir. 2017), citing Pennsylvania v. Del. Valley Citizens' Counsel for Clean Air, 478 U.S. 546, 565 (1992) (holding that a multiplier is permissible only in certain "rare" and "exceptional" circumstances).

The limitation on lodestar multipliers makes sense. Beginning with the presumption that a lodestar calculation results in a reasonable fee, a multiplier in the ordinary case will result in a "double dip" because the more challenging the case, the more hours the attorney expended in resolving it. *See City of Burlington v. Dague*, 505 U.S. 557, 562 (1992). And, because a multiplier should not be awarded unless the circumstances are rare or exceptional, the Third Circuit requires "specific evidence on the record" supporting the enhancement to meet its burden. *Dungee*, 2017 WL 65549 *2, quoting *Del. Valley Citizens' Counsel*, 478 U.S. at 565.

Class Counsel has not approached a showing of "rare and exceptional." Class Counsel, as the party requesting the multiplier or an upward adjustment of the lodestar figure, has the burden to "show that a multiplier is necessary to reach a fair and reasonable fee award." *See Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 543, 553 (2010) (noting that specific evidence of a lodestar multiplier should show that the lodestar calculation fails to adequate measure the "attorney's true market value" or the attorney's performance includes an extraordinary outlay of expenses and the litigation is exceptionally protracted). In its three-sentence argument advancing the propriety of a 2.6 multiplier, Class Counsel does not attempt to explain why this is a rare or exceptional case or why a fair fee cannot be achieved without the multiplier.

Class Counsels mathematic manipulation of its fee calculations to

reach \$112.5 million is tortured. The Alexander objectors urge the Court to reject an analysis that will place this fee award outside of any arguable range of appropriate.

2. Class Counsel cannot rely upon the \$10 million Educational Fund as part of the benefit to the Class Members.

As this Court described it in approving the Settlement, "[t]he Education Fund is a \$10 million fund to promote safety and injury prevention for football players of all ages, including youth football players." To the extent that the fund is established for education of non-Class Members, it is not appropriate to include it within the value of a fund secured "for the Class." Instead, the lodestar method, which is a simple fee shift, is appropriate when Class Counsel obtain a recovery that is "socially beneficial." *In re General Motors*, 55 F.3d at 820-821.

3. Class Counsel cannot rely upon "Complexity and Duration of the Litigation" as a favorable *Gunter/Prudential* factor.

This litigation would have been complex, but it wasn't. Class Counsel analyzes this factor as though the Court's prospective observation that the "document discovery, medical record discovery, expert discovery, and motion practice would be complex" came to pass. In fact, there was no document discovery in this case. There was no medical record discovery. There was no expert discovery.

the merits of the claims in this case.

This litigation could have been lengthy, but it wasn't. The Judicial Panel on Multidistrict Litigation established this MDL on January 31, 2012. Seeger aff. Paragraph 12. The Court ordered the parties to mediation in July, 2013 (1½ years later), and no further merits litigation occurred after that point. Compared to other MDL Class Actions, this litigation cannot be earnestly characterized as having been complex or lengthy. *See, e.g., In re Pharm. Indus. Average Wholesale Price Litig.*, No. 01-12257- PBS, 2008 U.S. Dist. LEXIS 111835, *78 (D. Mass. Oct. 2, 2008) (award of 30% of a common fund found to be fair for litigation that took place over seven years); *see also Williams v. Rohm and Haas Pension Plan*, 658 F.3d 629, 636 (7th Cir. 2011) (award of 24% of a common fund found to be fair for ERISA litigation that took place over eight years).

The complexity and duration of the settlement negotiations are captured by other *Gunter/Prudential* factors and should not be duplicated.

4. Class Counsel cannot rely upon the "Value of Benefits" as a favorable *Gunter/Prudential* factor.

This factor analyzes whether the efforts culminating in the Settlement were aided by, for example, government prosecutions or private cases. *See In re Diet Drugs*, 582 F.3d at 544. Class Counsel acknowledges the important fruits from the congressional hearings regarding head injuries in

the NFL.²⁴ But then Class Counsel suggests that it was not aided by a government investigation, notwithstanding, for example the extensive medical testimony adduced at those congressional hearings. As an example, the Senate Judiciary Committee heard from D.r Julian Bailes, a former NFL player and subsequent neurosurgeon who worked at the Brain Injury Research Institute where CTE was first discovered in 2002. These hearings did not provide a litigation roadmap. They provided a medical roadmap. Class Counsel supplies no evidence to support the statement that this litigation was not aided by the government investigation and the Alexander objectors object.

There is insufficient evidence to support the factual findings Class G. Counsel seeks under Federal Rule 26(h)

To support an award of fees in the class action context, the Third Circuit requires the court to "set forth the reasoning in support of a fee award." In re Rite Aid Corp., 396 F.3d at 301. The requirement ensures that "the District Court's fee determination [is not an] abuse of discretion, 'which can occur if the judge fails to apply the proper procedures in making the determination, or bases an award upon findings of fact that are clearly erroneous." Id., citing In re Cendant Corp., 243 F.3d at 727.

²⁴ See Memorandum of Law in Support of Class Counsel Petition for Fees, p. 48.

Here, Class Counsel's fee petition will require the Court to determine, inter alia, that the MAF has a value of over \$950 million and that Class Counsel fees are reasonable (that is, not duplicative or unnecessary) or provide a reasonable cross check. Because Class Counsel has provided the Court no evidence to support such findings, it would be an abuse of discretion to grant the fee petition in its current form.

1. Class Counsel has no evidence to support its argument on the Size of the Fund

Listed below (II.H) are the Alexander Objectors specific evidentiary objections. However, the objections to two particular statements in Mr. Seeger's declaration are more important than all others because if that evidence is inadmissible, the fee petition fails entirely. Stated differently, Mr. Seeger makes two statements in his declaration that constitute no evidence and, yet, these statements are absolutely essential to Class Counsel's fee petition.

Specifically, Mr. Seeger first indicates, in paragraph 44 of his declaration that "actuarial projections were that the MAF will pay out \$900-950 million by the end of its 65-year term." He then states, in that same paragraph, that Class Counsel "assumed a 50% participation rate for Class Members who had not filed suit and a 90% participation rate for those who had."

Mr. Seeger's reference to a projected pay out is hearsay in that he is relying upon another's unsworn, out-of-court statement for the truth of the matter. Fed. R. Evid. 801. And, the data to which Mr. Seeger is, the February, 2014 Vasquez report, does not pertain to the Settlement actually approved by the Court. Mr. Seeger has neither the personal knowledge nor the actuarial expertise to support the pay-out statement and, therefore, it is without foundation. Mr. Seeger's payout testimony is conclusory, speculative, and, because necessarily based upon irrelevant and stale data, is irrelevant.

Finally, for the reasons previously outlined in Section II.D, the February, 2014 Vasquez report is not a reliable basis from which this Court should award attorneys' fees because it is unable to forecast a participation rate for Level 1.5 and Level 2 neurocognitive disorders in the absence of any incidence data. These Qualifying Diagnosis are settlement diseases and the incidence of such Qualifying Diagnosis is unknown and unknowable.

Next, Mr. Seeger's reference to Class Counsel's assumptions about participation are speculative, without foundation, an improper opinion, and necessarily based upon an improper methodology. Mr. Seeger suggests that the participation assumption arises from pre-registrations and registrations to date. Mr. Seeger cites no particular data or methodology for the

participation assumption. To the extent that Mr. Seeger is attempting to rely upon the Claims Administrator's reports of interest in the Settlement, the data does not provide a reliable foundation for participation. Specifically, Mr. Seeger fails to support a statistical correlation between the "interest in receiving further information," as reported by the Claims Administrator and actual participation by NFL players who never even filed suit. By way of example, there is no way of knowing from the IP tracking that the IP even belongs to a putative member of this class. Moreover, Mr. Seeger fails to detail any qualifications for rendering such an opinion.

In short, Mr. Seeger's two statements are the only evidence Class Counsel offers to support its \$950 million valuation of the MAF. And, the MAF valuation forms more than 80% of the total alleged benefit to the Class. Because the proffered evidence of the projected value of the MAF is inadmissible, Class Counsel's fee petition is completely without foundation.

2. Class Counsel has no evidence to support its argument on the Lodestar Check or the amount of time counsel devoted to the Case.

Class Counsel supplies no evidence whatsoever of the attorney hours reasonably expended on behalf of the Class Members. "In calculating the second part of the lodestar determination, the *time* reasonably expended," a district court should "review the time charged, decide whether the hours set

out were reasonably expended for each of the particular purposes described and then exclude those that are excessive, redundant, or otherwise unnecessary." *Pennsylvania Envtl. Def. Found. v. Canon-McMillan Sch. Dist.*, 152 F.3d 228, 232 (3d Cir. 1998). And, Federal Rule of Civil Procedure 23(h) authorizes an award of "reasonable attorney fees." Class Counsel's Petition relies for its primary support on the Declaration of Christopher A. Seeger, but Mr. Seeger does not offer an opinion that the fees sought are reasonable. Similarly, none of the other attorney declarations offer an opinion about whether the fees sought are reasonable. The Court is left with no evidence on this point.

Further, Class Counsel provides no evidence whatsoever of what compensable categories of service were rendered by the attorneys seeking payment for fees. In a conclusory fashion, Class Counsel states, on pages 64-65 of the Memorandum in support of the Petition that "[t]he total hours expended on this litigation were 50,912.39, which included time reasonably spent investigating the claims, conferring on and formulating case strategy, drafting complaints and master administrative complaints, defending against dispositive motions, the extensive and spirited mediation (including the second round that followed the Court's January 2014 rejection of the first settlement agreement), the actual negotiation and drafting of the Settlement

(including its precursors), the drafting of Rule 23(e) preliminary and final approval papers, overseeing the preparation and dissemination of Class Notice, dealing with innumerable Class Members, preparing for implementation of the Settlement, and defending against multiple appeals (both interlocutory and from the final judgment and order approving the Settlement." That is the <u>only</u> statement within the Petition, the Memorandum, <u>or</u> the evidence from which this Court would have any hint about how "the attorneys" spent their time.

In more than twenty attorney declarations, the Court is provided no information about how either the declarant or one of the declarant's attorneys actually spent their time. Every declaration includes a "Lodestar Report" that is HOURS, HOURLY RATE, and AMOUNT. Not in a single Lodestar Report will the Court find any reference to the date on which a service was rendered or the nature of the task completed. The omission is all the more alarming when considered in light of Class Counsel's agreement under Case Management Order No. 5, to segregate attorneys' fees hours into compensable categories:

- Pleadings, Motions, Briefs & Legal Research
- Preparing & Responding to Discovery Requests
- Factual Research and Analysis
- Document Analysis

- Depositions (including preparation)
- Officially-Called Meetings of Counsel25
- Common Benefit Case Management
- Court Appearances
- Trial Preparation & Trial
- Appeals
- Settlement

This Court has already ordered that the above are the compensable categories. But Class Counsel has rendered it impossible from the Petition to determine how many hours of attorney time sought are actually within these categories. Class Counsel neither explains why it has withheld this data nor how it expects this Court to perform the review required without such data.

Thus, this Court cannot perform this task because counsel has not supplied any information about the time charged for a particular purpose; the Court cannot exclude excessive hours, redundant hours, or unnecessary hours because counsel has withheld the data to perform the analysis.

As such, the Court should deny the petition in its present form.

²⁵ Although it is not entirely clear what an officially-called meeting of counsel is, it is difficult to believe that it covers, for example, the series of telephone conferences referenced above by Mr. Schenk in his declaration.

H. The Alexander Objectors evidentiary objections to the declarations filed in support of Class Counsel's Petition for Fees.

	The Alexander Objectors Evidentiary Objections
Declaration of Christopher Seeger,	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Seeger's
ECF No. 7151-2	declaration seeks an award of attorney fees in reliance upon 21,044.46 hours alleged worked by lawyers and other professional staff in his firm for a total lodestar fee of \$18,124,869.10. Mr. Seeger never testifies that these hours billed are reasonable or necessary or non-duplicative.
	Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Mr. Seeger offers no evidence from which the Court could conclude that he has personal knowledge about the individual hourly efforts of
	**all "Plaintiffs' Counsel" [Paragraphs 17, 18, 19, 20, 29, 31, 32, 33, 39, 40, 43, 45, 46, 47, 5153, 54, 56, 57, 64]
	**the efforts of all PSC members or the lawyers in law firms other than Seeger Weiss LLP [71—81]
	**attorneys within Seeger Weiss LLP other than Mr. Seeger himself [82 – 96]
	Mr. Seeger simply gives the Court no information from which the Court could determine that Mr. Seeger has personal knowledge of how many hours each of the 79 attorneys worked, what they worked on, and that such work benefitted the Class.
	Under Fed. R. E. 801 a witness may not relay upon hearsay without exception. Mr. Seeger's

Declaration, Paragraphs 11, 49, 50, are based upon hearsay. Mr. Seeger's Declaration, Paragraphs 44 and footnote 4 within that same Paragraph speculation. Under Federal Rule of Evidence 702, the Court should not receive an expert opinion unless the opinion "is based upon sufficient facts or data"; "is the product of reliable principles and methods; and "the witness has applied the principles and methods reliably to the facts of the case. To the extent Mr. Seeger is attempting to testify about participation projections, without he is qualification or a reliable methodology. Daubert v. Merrell Dow Pharms., Inc. 509 U.S. 579, 589 (1993). Finally, Counsel seeks the above fees and an additional \$1,498,690.99 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable. Declaration of Orran An expert opinion is inadmissible if it is based upon conjecture or speculation. See Fedorczyk v. Brown, ECF No. 7151-4 Caribbean Cruise Lines, Ltd., 82 F.3d 69, 75 (3d Cir. 1996). Mr. Brown's Declaration, Paragraph 10 is a projection of Administrative Costs that is wholly based upon speculation or conjecture. The witness admits that the projection is "very difficult to do before we know how many Settlement Class Members will register with us, how many claims we will receive, how complete they will be, how many outcomes will be appealed, and the quantity of the many other functions we will perform in this program."

	In the alternative, Mr. Brown's opinion in Paragraph 10 about the Settlement participation projection is inadmissible under 702 in that it is based upon a methodology that is neither disclosed nor apparently reliable. Specifically, the witness bases his opinions on "many assumptions, all of which are subject to change." He never discloses such assumptions and, based upon them, he estimates over \$10 million dollars in expenses.
Levin, A. 7151-6	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Levin's declaration seeks an award of attorney fees in reliance upon 5,021hours alleged worked by lawyers and other professional staff in his firm for a total lodestar fee of \$6,031,806.25. Mr. Levin never testifies that these hours billed are reasonable or necessary or non-duplicative.
	Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Mr. Levin offers no evidence from which the Court could conclude that he has personal knowledge about the individual hourly efforts of the other lawyers or professional staff in his office.
	Finally, Counsel seeks the above fees and an additional \$519,893.97 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Locks, G. 7151-7	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Locks' declaration seeks an award of attorney fees in reliance upon 4,243 hours alleged worked by lawyers and other professional staff in his firm for a total lodestar fee

of \$3,084,500. Mr. Locks never testifies that these hours billed are reasonable or necessary or non-duplicative.

Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Mr. Locks offers no evidence from which the Court could conclude that he has personal knowledge about the individual hourly efforts of the other lawyers or professional staff in his office.

Finally, Counsel seeks the above fees and an additional \$3,084,500 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.

Marks, S. 7151-8

Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Marks' declaration seeks an award of attorney fees in reliance upon 4,510.8 hours alleged worked by lawyers and other professional staff in his firm for a total lodestar fee of \$3,005,744.50. Mr. Marks never testifies that these hours billed are reasonable or necessary or non-duplicative.

Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Mr. Marks offers no evidence from which the Court could conclude that he has personal knowledge about the individual hourly efforts of the other lawyers or professional staff in his office.

Finally, Counsel seeks the above fees and an additional \$771,127.79 in costs and expenses

	without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Dianne M. Nast, ECF No. 7151-9	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Ms Nast's declaration seeks an award of attorney fees in reliance upon 1,211.75 hours alleged worked by lawyers and other professional staff in her firm for a total lodestar fee of \$765,060.25. Ms. Nast never testifies that these hours billed are reasonable or necessary or non-duplicative.
	Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Ms. Nast offers no evidence from which the Court could conclude that she has personal knowledge about the individual hourly efforts of the other lawyers or professional staff in her office.
	Finally, Counsel seeks the above fees and an additional \$117,138.64 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Sol H. Weiss, ECF No. 7151-10	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Weiss' declaration seeks an award of attorney fees in reliance upon 4,241.22 hours alleged worked by lawyers and other professional staff in his firm for a total lodestar fee of \$1,857,436.00. Mr. Weiss never testifies that these hours billed are reasonable or necessary or non-duplicative.
	Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the

	witness has personal knowledge of the matter. Mr. Weiss offers no evidence from which the Court could conclude that he has personal knowledge about the individual hourly efforts of the other lawyers or professional staff in his office. Finally, Counsel seeks the above fees and an additional \$1,031,971.55 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Garrett D. Blanchfield, Jr. ECF No. 7151-11	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Blanchfield's declaration seeks an award of attorney fees in reliance upon 23.10 hours alleged worked for a total lodestar fee of \$14,899.50. Mr. Blanchfield does not testify that these hours billed are reasonable or necessary or non-duplicative. Finally, Counsel seeks the above fees and an additional \$1,480.57 in travel, meals, and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of William G. Caldes, ECF No. 7151-12	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Caldes' declaration seeks an award of attorney fees in reliance upon 74.4 hours alleged worked for a total lodestar fee of \$51,708.00. Mr. Caldes does not testify that these hours billed are reasonable or necessary or non-duplicative.
	Finally, Counsel seeks the above fees and an additional \$1,460.92 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.

Declaration of Leonard A. Davis, ECF No. 7151-13

Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Davis' declaration seeks an award of attorney fees in reliance upon 136.30 hours alleged worked by lawyers in his firm for a total lodestar fee of \$89,660. Mr. Davis never testifies that these hours billed are reasonable or necessary or non-duplicative.

Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Mr. Davis offers no evidence from which the Court could conclude that he has personal knowledge about the individual hourly efforts of the other of counsel attorney in his office.

Declaration of James R. Dugan, II ECF No. 7151-14

Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Dugan' declaration seeks an award of attorney fees in reliance upon 293.90 hours alleged worked by lawyers in his firm for a total lodestar fee of \$188,340.50. Mr. Dugan never testifies that these hours billed are reasonable or necessary or non-duplicative.

Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Mr. Dugan offers no evidence from which the Court could conclude that he has personal knowledge about the individual hourly efforts of the other lawyers in his office.

Finally, Counsel seeks the above fees and an additional \$118,8880.16 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.

Declaration of Daniel C. Girard, ECF No. 7151-15	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Girard' declaration seeks an award of attorney fees in reliance upon 373.10 hours alleged worked by lawyers in his firm for a total lodestar fee of \$279,489.00. Mr. Girard never testifies that these hours billed are reasonable or necessary or non-duplicative.
	Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Mr. Girard offers no evidence from which the Court could conclude that he has personal knowledge about the individual hourly efforts of the other lawyers in his office.
	Finally, Counsel seeks the above fees and an additional \$8,300.11 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Thomas V. Girardi, ECF No. 7151-16	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Girardi's declaration seeks an award of attorney fees in reliance upon 626.80 hours alleged worked by lawyers in his firm for a total lodestar fee of \$472,370.00. Mr. Girardi never testifies that these hours billed are reasonable or necessary or non-duplicative.
	Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Mr. Girardi offers no evidence from which the Court could conclude that he has personal knowledge

	about the individual hourly efforts of the other lawyers in his office.
	Finally, Counsel seeks the above fees and an additional \$5,509.15 in travel, meal and lodging expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Bruce A. Hagen, ECF No. 7151-17	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Hagen's declaration seeks an award of attorney fees in reliance upon 540.80 hours alleged worked by his firm for a total lodestar fee of \$ 324,480.00. Mr. Hagen never testifies that these hours billed are reasonable or necessary or non-duplicative.
	Finally, Counsel seeks the above fees and an additional \$16,998.08 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Samuel Issacharoff, ECF NO. 7151-18	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Issacharoff's declaration seeks an award of attorney fees in reliance upon 801.75 hours alleged worked by lawyers in his firm for a total lodestar fee of \$800,512.50. Mr. Issacharoff never testifies that these hours billed are reasonable or necessary or non-duplicative.
	Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Mr. Issacharoff offers no evidence from which the Court could conclude that he has personal knowledge about the individual hourly efforts of the other lawyers in his office.

	Finally, Counsel seeks the above fees and an additional \$7,302.22 in travel, meals, and lodging expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Richard Lewis, ECF No. 7151-19	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Lewis' declaration seeks an award of attorney fees in reliance upon 1,281.8 hours alleged worked by lawyers and other professional staff in his firm for a total lodestar fee of \$763,917.50. Mr. Lewis never testifies that these hours billed are reasonable or necessary or non-duplicative.
	Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Mr. Lewis offers no evidence from which the Court could conclude that he has personal knowledge about the individual hourly efforts of the other lawyers or professional staff in his office.
	Finally, Counsel seeks the above fees and an additional \$165,468.47 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Jason E. Luckasevic, ECF No. 7151-20	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Luckasevic's declaration seeks an award of attorney fees in reliance upon 500.6 hours alleged worked by lawyers in his firm for a total lodestar fee of \$262,860.00. Mr. Luckasevic never testifies that these hours billed are reasonable or necessary or non-duplicative.

	Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Mr. Luckasevic offers no evidence from which the Court could conclude that he has personal knowledge about the individual hourly efforts of the other lawyers in his office. Finally, Counsel seeks the above fees and an additional \$11,823.78 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Derriel C. McCorvey, ECF No. 7151-21	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. McCorvey's declaration seeks an award of attorney fees in reliance upon 331.3 hours alleged worked by lawyers in his firm for a total lodestar fee of \$198,780.00. Mr. McCorvey never testifies that these hours billed are reasonable or necessary or non-duplicative. Finally, Counsel seeks the above fees and an
	additional \$104,155.65 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Pope McGlamry, ECF No. 7151-22	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. McGlamry's declaration seeks an award of attorney fees in reliance upon 1,274.9 hours alleged worked by lawyers and other professional staff in his firm for a total lodestar fee of \$829,030.00. Mr. McGlamry never testifies that these hours billed are reasonable or necessary or non-duplicative.
	Under Federal Rule of Evidence 602, a "witness

	may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Mr. McGlamry offers no evidence from which the Court could conclude that he has personal knowledge about the individual hourly efforts of the other lawyers or professional staff in his office. Finally, Counsel seeks the above fees and an additional \$125,137.01 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Craig R. Mitnick, ECF No. 7151-23	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Mitnick's declaration seeks an award of attorney fees in reliance upon 1,198.15 hours of work for a total lodestar fee of \$898,612.50. Although far more detailed than most other counsel's declarations, Mr. Mitnick does not render an opinion that the hours worked are reasonable or necessary or non-duplicative.
	Mr. Mitnick also seeks the above fees and an additional \$83,082.20 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of David A. Rosen, ECF No. 7151-24	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Rosen's declaration seeks an award of attorney fees in reliance upon 243.03 hours alleged worked for a total lodestar fee of \$157,969.50. Mr. Rosen never testifies that these hours billed are reasonable or necessary or non-duplicative.
	Finally, Counsel seeks the above fees and an additional \$112,168.64 in costs and expenses

	without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Frederick Schenk, ECF No. 7151-25	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Schenk's declaration seeks an award of attorney fees in reliance upon 417.40 hours alleged worked for a total lodestar fee of \$333,920. Mr. Schenk never testifies that these hours billed are reasonable or necessary or non-duplicative.
	Finally, Counsel seeks the above fees and an additional \$86,651.72 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Anthony Tarricone, ECF No. 7151-26	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Tarricone's declaration seeks an award of attorney fees in reliance upon 1,573 hours alleged worked for a total lodestar fee of \$1,258,400.00. Mr. Tarricone never testifies that these hours billed are reasonable or necessary or non-duplicative.
	Finally, Counsel seeks the above fees and an additional \$120,832.04 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.
Declaration of Charles S. Zimmerman, ECF No. 7151-27	Fed. R. Civ. P. 23(h) authorizes the award of "reasonable attorney fees." Mr. Zimmerman's declaration seeks an award of attorney fees in reliance upon 1,106.50 hours alleged worked by lawyers and other professional staff in his firm for a total lodestar fee of \$885,907.25. Mr. Zimmerman never testifies that these hours billed are reasonable or necessary or non-duplicative.

Under Federal Rule of Evidence 602, a "witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Mr. Zimmerman offers no evidence from which the Court could conclude that he has personal knowledge about the individual hourly efforts of the other lawyers or professional staff in his office.

Finally, Counsel seeks the above fees and an additional \$135,545.72 in costs and expenses without demonstrating, as required by Case Management Order No 5, that such costs and expenses are compensable.

I. The Alexander Objectors object to the Adoption of a Set-Aside as Premature, Based upon Speculation.

Class Counsel also ask the Court to set aside five percent of each Monetary Award and Derivative Claimant Award pursuant to Section 21.1 of the Settlement.

The Alexander Objectors object the award of a 5% set aside at this time, as premature. All of the arguments that Class Counsel advance in favor of an immediate award of 5% set aside presuppose the exhaustion of the \$112.5 in fees already available under Section 21.1. Should the Court consider delaying all but a classic Lodestar fee to counsel who have benefitted the Class, there will be plenty of fee funds available as the Court assesses the actual NFL player participation and eligibility. The request is

premature.

The Alexander Objectors also object, on similar grounds, that Class Counsel has made no effort whatsoever to justify the need for a 5% set aside, instead of a lesser set aside. If the post-Lodestar residual is invested, the funds will provide for the future fee needs. But, instead, Class Counsel is once again urging a set-aside on all future monies. Based, again, upon Class-Counsel's unsupported guess that the Settlement will pay out \$950,000,000 over 65 years, Class Counsel's request for a set-aside of 5% is an additional fee request of \$45,470 million, or \$25.9 million discounted to present value.²⁶

Finally, the Alexander Objectors object to the suggestion of Class Counsel that Mr. Seeger be assigned by the Court to "allocate the overall fee and expense award." See Declaration of Christopher A. Seeger, Paragraph 99, ECF No. 7151-2. Section 21.1 directs that any monies set aside "shall be held in a separate fund overseen by the Court."

III. CONCLUSION

This Court has overseen MDL 2323 for more than four years for the benefit of retire NFL Players who have suffered serious personal injuries.

²⁶ See Declaration of Kenneth G. McCoin, Ph.d., C.F.A., attached hereto as Alexander fee objectors Exhibit A.

The Court is turning to a new phase of the process: Claims Administration.

Class Counsel appointed by this Court are entitled to be fairly compensated

for their efforts. Other counsel who have contributed to the common benefit

of the Class Members are also entitled to be fairly compensated. And, a

Lodestar presumptively yields a fair attorneys fee and Class Counsel could

be compensated – on an interim basis – on that model right now.

However, until the Claims Administration process yields some

objective data from which this Court could assign a value to the Monetary

Award Fund, Class Counsel's request for a percentage of the unknown value

is premature and Class Counsel's suggestion that a multiplier is appropriate

as an enhancement for rare and exceptional circumstances is unjustified.

The Alexander Objects ask the Court to deny or defer Class Counsel's

Petition for Fees and enter a Case Management Order establishing filing

deadlines and a schedule for submission of data in support of common-

benefit fee petitions in accordance with Article XXI Of the Settlement.

Date: March 27, 2017

Respectfully Submitted,

Mickey Washington

Texas State Bar No.: 24039233

WASHINGTON & ASSOCIATES, PLLC

1314 Texas Ave., Suite 811

Houston, Texas 77002

Telephone: (713) 225-1838

/s/ Lance H. Lubel

Lance H. Lubel

Texas State Bar No.: 12651125

Adam Voyles

Texas State Bar No.: 24003121

Justin R. Goodman

Texas State Bar No.: 24036660

Facsimile: (713) 225-1866

Email: mw@mickeywashington.com

James Carlos Canady Texas State Bar No.: 24034357 THE CANADY LAW FIRM 5020 Montrose Blvd., Suite 800

Houston, TX 77006

Telephone: (713) 284-5204 Facsimile: (713) 284-5250

Email: ccanady@canadylawfirm.com

LUBEL VOYLES LLP Montrose Blvd., Suite 800

Houston, TX 77006

Telephone: (713) 284-5200 Facsimile: (713) 284-5250

Email: lance@lubelvoyles.com

adam@lubelvoyles.com jgoodman@lubelvoyles.com

Attorneys for Melvin Aldridge, Trevor Cobb, Jerry Davis, Michael Dumas, Corris Ervin, Robert Evans, Anthony Guillory, Wilmer K. Hicks, Jr., Richard Johnson, Ryan McCoy, Emanuel McNeil, Robert Pollard, Frankie Smith, Tyrone Smith, James A. Young Sr., and Baldwin Malcom Frank

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on all counsel of record via the Court's ECF system on March 27, 2017.

/s/ Justin R. Goodman
Justin R. Goodman

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION) MDL No. 2323) No. 2:12-md-2323-AB
Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,) Hon. Anita B. Brody)
Plaintiffs, v.) Civ. Action No. 14-00029-AB
National Football League, et al.,)
Defendants.) _)
THIS DOCUMENT RELATES TO Document 7151)))

CERTAIN PLAINTIFFS' RESPONSE IN OPPOSITION TO PETITION FOR ADOPTION OF SET-ASIDE OF FIVE PERCENT OF EACH MONETARY AWARD AND DERIVATIVE CLAIMANT AWARD

Certain Plaintiffs,¹ by and through their attorneys Thomas Girardi of Girardi Keese along with Herman J. Russomanno and Robert J. Borello of Russomanno & Borrello, and Jason E. Luckasevic and Jason T. Shipp of Goldberg, Persky & White, P.C., respond in opposition to Co-Lead Class Counsel's Petition for Adoption of Set-Aside of Five Percent of Each Monetary Award and Derivative Claimant Award (ECF No. 7151). Pursuant to the Court's Amended Final Order and Judgment dated May 11, 2015 and the Settlement Agreement entered

¹ Undersigned counsel represent more than 500 Retired NFL Players in this matter.

among the class action parties in this Multidistrict Litigation, Co-Lead Class Counsel ("CCC") filed its Petition on February 13, 2017. Certain Plaintiffs herein only object to the Petition in relation to the proposed five percent set-aside.

ARGUMENT

A. This Court should not permit a five percent tax on each award from the Monetary Award Fund without some evidentiary basis of what the actual facilitation costs of the Settlement program will be.

Section 21.1 of the Settlement Agreement states:

After the Effective Date, Co-Lead Class Counsel may petition the Court to set aside up to five percent (5%) of each Monetary Award and Derivative Claimant Award to facilitate the Settlement program and related efforts of Class Counsel. These set-aside monies shall be held in a separate fund overseen by the Court. Any future petition for a set-aside will describe: (i) the proposed amount; (ii) how the money will be used; and (iii) any other relevant information (for example, the assurance that any "set-aside" from a Monetary Award or Derivative Claimant Award for a Settlement Class Member represented by his/her individual counsel will reduce the attorney's fee payable to that counsel by the amount of the "set-aside"). No money will be held back or set aside from any Monetary Award or Derivative Claimant Award without Court approval.

ECF No. 6481-1 at 82.

CCC's Petition includes the proposed amount of the set-aside, a description of how the money will be used, and an assurance that all represented Settlement Class Members will have their attorney's fees reduced by the amount of the set-aside. However, it is starkly barren in relation to crucial relevant information, namely any evidence of what the actual facilitation costs of the Settlement program will be. While CCC spends a little more than three pages in their Memorandum in Support of their Petition reciting potential duties in

relation to facilitation of the Settlement program,² they candidly admit they "cannot fully or accurately predict the scope or extent of those necessary services". ECF No. 7151-1 at 63-64.

Nonetheless, CCC asks this Court to levy a tax on all Monetary Awards that will amount to \$40-\$50 million or even more over the life of the Settlement program. They offer no projections of the costs, no expert reports, nothing empirical whatsoever to support the imposition of a \$50 million tax. Plaintiffs submit that the mere three pages of general descriptions of facilitation duties offered by CCC to this Court in support of it Petition should not be remotely sufficient for the levying of a tax of tens of millions of dollars on Monetary Awards.

CCC states that, should the Court approve the proposed five percent set-aside, it will submit a detailed plan of administration to the Court. This is putting the cart before the horse. Considering the vast amount of money that CCC has requested be set-aside, it is certainly not too onerous for CCC to supply this Court with some kind of projection of what the actual facilitation costs of the settlement program will be.

Certain Plaintiffs recognize that there will be significant facilitation costs in relation to the Settlement program and they desire that the program runs smoothly and effectively. However, before a \$50 million tax is levied on Monetary Awards, this Court should have some evidentiary basis of what the actual costs will be. Hence, this Court should deny CCC's Petition in relation to the five percent set aside until it has some evidence before it to determine its reasonableness.

B. Should this Court grant CCC's Petition in relation to the five percent set-aside, it should periodically assess the set-aside fund to determine if there is a surplus.

² ECF No. 7151-1 at 61-64.

Should this Court approve the five percent set-aside, whether with a factual basis or not, it should periodically assess the set-aside fund to determine if there is a surplus sufficient to prospectively reduce the set-off percentage.

CONCLUSION

For the previously stated reasons, CCC's Petition in relation to the five percent set off should be denied until CCC provides evidence sufficient for this Court to approve it.

Dated: March 27, 2017

Respectfully Submitted:

/s/ Thomas V. Girardi
Thomas V. Girardi
Girardi & Keese
1126 Wilshire Blvd.
Los Angeles, CA 90017
tgirardi@girardikeese.com

(T) 213-977-0211 (F) 213-481-1554 Case: (18520222-rDtb-020002014A603D1083116592735 Pagrelle9383/27DLate Filed: 508/09/2019

CERTIFICATE OF SERVICE

I hereby certify that I have, this day, electronically filed the foregoing with the Clerk of the Court using CM/ECF system which will send notification of such filing to all counsel of record on this 27th day of March 2017.

/s/ Thomas V. Girardi Girardi & Keese

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated, No. 2:12-md-02323-AB

Plaintiffs,

MDL No. 2323

Hon. Anita B. Brody

v.

National Football League and NFL Properties, LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO:

ALL ACTIONS

OBJECTION OF ESTATE OF WALLY HILGENBERG AND ESTATE OF PETER DURANKO TO PETITION FOR ATTORNEYS FEES BY CLASS COUNSEL ANAPOL WEISS

Eric Hilgenberg, as trustee of the estate of Wally Hilgenberg (the "Hilgenberg Estate") and Janet Duranko, as the executrix of the estate of Peter Duranko (the "Duranko Estate") submit the following objection to Class Counsel's intention to enforce contingent fee agreements signed by representatives of the estates prior to the establishment of this MDL. The estates also object to Class Counsel's request for a 5% holdback fee from the families' settlement funds for prospective future work. As detailed herein, allowing Class Counsel to collect on its contingent fee agreements and set-aside request would result in a back-door windfall of over \$2,500,000 to Class Counsel.

I. <u>BACKGROUND</u>

As required by the Court's March 8 Order, the Hilgenberg Estate and Duranko Estate provide the following information:

A. Name of Case and Multidistrict Litigation

- Eric Hilgenberg, Trustee of Wally Hilgenberg Estate v. National Football League, et al.; No. 2:12-cv-0589-AB
- Janet Duranko, as Executrix of the Estate of Peter Duranko v. National Football League, et al; No. 2:12-cv-0702-AB

B. Name, Address, and Date of Birth

- Eric Hilgenberg, as trustee of the Estate of Wally Hilgenberg
 - o 18526 Judicial Road, Prior Lake, MN 55372
 - o 612-708-0923
 - 0 01/08/1973
- Janet Duranko, executrix of the estate of Peter Duranko
 - o 417 S. Clearfield St., Johnstown, PA 15905
 - 0 814-255-3060
 - 0 05/16/1946

C. Name of Player

- Wally Hilgenberg
- Peter Duranko

II. STATEMENT OF OBJECTIONS

A. Facts

Wally Hilgenberg played in the NFL for 12 seasons with the Minnesota Vikings and 4 seasons with the Detroit Lions. Wally Hilgenberg retired from the NFL in 1979 after suffering multiple concussions. Following his retirement, Wally Hilgenberg began to suffer extreme muscle weakness and in 2008 was given the horrific diagnosis of ALS. The injuries from his NFL career lead to progressive problems with his speech, swallowing, breathing, and ultimately resulted in his complete paralysis and death.

Case: 18-2012 Document: 003113316592 Page: 941 Date Filed: 08/09/2019

Peter Duranko played in the NFL for 8 seasons with the Denver Broncos. Peter Duranko retired from the NFL in 1974 after suffering multiple concussions. Following his retirement, Peter Duranko began to suffer memory loss, headaches, and depression and was diagnosed with ALS. Peter Duranko ultimately required hospice and in-home medical care, and suffered from respiratory failure until his death.

Following the passing of Wally Hilgenberg and Peter Duranko, the players' respective families began to explore relief against the NFL for the injuries suffered by the players during their careers. Both families ultimately retained Co-Lead Class Counsel Anapol Weiss¹ to represent them against the NFL. Specifically, on January 17, 2012, Janet Duranko signed a contingency fee agreement with Class Counsel that grants the firm a 35% contingency fee against any recovery obtained for the Duranko Estate. On January 24, 2012, Eric Hilgenberg signed a contingency fee agreement with Class Counsel that grants the firm a 35% contingency fee against any recovery obtained for the Hilgenberg Estate. This MDL was established on January 31, 2012.

As the Court is aware, the parties were subsequently able to reach a settlement of the MDL. In relevant part, under the settlement, the Hilgenberg Estate will receive \$2,800,000 and the Duranko Estate will receive \$3,500,000. At the same time, Class Counsel will be sharing in a \$112.5 million attorney fee award. Class Counsel nevertheless intends to enforce its contingent fee agreements², seeking to extract an additional \$2,205,000 from the families (\$980,000 from

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¹ At the time the families retained Class Counsel, the agreements were signed by Larry E. Coben for Anapol Schwarz as opposed to Anapol Weiss.

² Co-Lead Class Counsel, Seeger Weiss LLP, has indicated that it does not intend to pursue the same draconian relief from individual class members it represents. Doc. No. 7151-1, n. 8.

the Hilgenberg Estate and \$1,225,000 from the Duranko Estate).³ Class Counsel has also requested that the Court approve a 5% holdback from their settlement funds in order to cover prospective future work. The families object to both requests of Class Counsel and ask that the Court prevent Class Counsel from enforcing its contingent fee agreements and withholding 5% of the families settlement funds.

B. Law⁴

1. Standard

Under Fed R. Civ. P. 23(h), the Court may award attorneys' fees that are reasonable in a certified class action. FED. R. Civ. P. 23(h). In making a determination as to how much to award class counsel, the Court should conduct a thorough review. *Perry v. FleetBoston Fin. Corp.*, 229 F.R.D. 105, 118 (E.D. Pa. 2005). The Court is vested with the authority to set aside a contingent fee agreement with class members in the event of a class-wide settlement. *Dunn v. H.K. Porter*, 602 F.2d 1105, 1108 – 1109 (3rd Cir. 1979). This is particularly true when the contingent fee agreement would result in an unreasonable fee. <u>Id</u>.

2. Argument

Allowing Class Counsel to enforce their contingent fee agreements would result in an unreasonable award of attorneys' fees. Class Counsel will be fairly compensated for its work in this matter, and neither the Hilgenberg Estate nor the Duranko Estate suggests that should not be the case. However, what both the Hilgenberg Estate and the Duranko Estate object to is Class Counsel's efforts to secure a back-door windfall of an additional \$2,205,000. Both families

³ In an attempt to avoid an objection to their intentions, Class Counsel has indicated to both the Hilgenberg Estate and the Duranko Estate that it would lower its contingent fee agreement to 23%. This still results in an additional payment of \$1,449,000 to Class Counsel (\$644,000 from the Hilgenberg Estate and \$805,000 from the Duranko Estate).

⁴ For the sake of brevity and because these issues are before the Court on a number of other well articled objections, the Hilgenberg Estate and Duranko Estate will not devote excessive argument in their objection. *See* Doc. No. 7029, 7114, 7205, 7282, 7344, 7346.

signed their contingent fee agreements on the event of the MDL establishment. The complaints filed by Class Counsel on behalf of the families are largely identical (presumably as are all complaints filed in that time period by Class Counsel) and reflect common benefit work, not work devoted specifically to a given class member. Given the timing of Class Counsel's retention and the establishment of this MDL, it is clear that Class Counsel's work was common benefit and any work related specifically to the Hilgenberg Estate or the Duranko Estate would be *de minimis*. There is no justification to award Class Counsel an additional \$2,205,000 for that work when counsel is already being compensated fairly out of the \$112.5 million common fun for the time it invested in this lawsuit.

As the same time, the Hilgenberg Estate and Duranko Estate object to Class Counsel's request for a 5% holdback on the families' settlement funds for prospective work. There are sufficient funds in the fee fund to cover fees, if any, that Class Counsel may incur in the future during the administration of the class. There is nothing in the Settlement Agreement or the Court's orders allowing Class Counsel to hold those funds back from the individual class members. At the same time, Class Counsel's request is speculative, based on assumption and guesswork, and fails to justify the monetary penalty the holdback imposes on the individual class members. Class Counsel's request would result in a \$47,500,000 holdback against the individual class members and, given the stage of these proceedings, that amount can hardly be justified. More specifically, granting Class Counsel's request would result in a holdback of \$315,000 against the Hilgenberg Estate and Duranko Estate in favor of Class Counsel. Such a request cannot, and has not, been justified by Class Counsel. This request amounts to another attempt by Class Counsel to double dip and extract additional fees from the Hilgenberg Estate and Duranko

Date Filed: 08/09/2019 Case: 18-2012 Document: 003113316592 Page: 944 Estate. Accordingly, the families request that Court deny Class Counsel's request for a 5% holdback. Respectfully submitted, TUCKER LAW GROUP, LLC Dated: March 27, 2017 By: /s/ Joe H. Tucker, Jr. Joe H. Tucker, Jr., Esquire Kevin L. Golden, Esquire Ten Penn Center 1801 Market Street, Suite 2500 Philadelphia, PA 19103 (215) 875-0609 Attorneys for Eric Hilgenberg, as Trustee of the Estate of Wally Hilgenberg and Janet Duranko, as Executrix of the Estate of Peter Duranko CLIENT VERIFICATION Marcit 27, 0 Eric Hilgenberg, as Trustee of the Hstate of Wally Hilgenberg By: Janet Duranko, as Executrix of the Estate of Peter Duranko Dated

members. Class Counsel's request would result in a \$47,500,000 holdback against the individual class members and, given the stage of these proceedings, that amount can hardly be justified. More specifically, granting Class Counsel's request would result in a holdback of \$315,000 against the Hilgenberg Estate and Duranko Estate in favor of Class Counsel. Such a request cannot, and has not, been justified by Class Counsel. This request amounts to another attempt by Class Counsel to double dip and extract additional fees from the Hilgenberg Estate and Duranko Estate. Accordingly, the families request that Court deny Class Counsel's request for a 5% holdback.

Respectfully submitted,

TUCKER LAW GROUP, LLC

Dated: March 27, 2017

By: /s/ Joe H. Tucker, Jr.

Joe H. Tucker, Jr., Esquire Kevin L. Golden, Esquire

Ten Penn Center

1801 Market Street, Suite 2500

Philadelphia, PA 19103

(215) 875-0609

Attorneys for Eric Hilgenberg, as Trustee of the Estate of Wally Hilgenberg and Janet Duranko, as Executrix of the Estate of Peter Duranko

CLIENT VERIFICATION

By:		
	Eric Hilgenberg, as Trustee of the Estate of Wally Hilgenberg	Date
$\mathbf{p}_{\mathbf{w}}$	1 Kungaka	3/27/12
Dy.	Janes Surano	
	Janet Duranko, as Executrix of the Estate of Peter Duranko	Dated /

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

No. 2:12-md-02323-AB

Plaintiffs,

MDL No. 2323

Hon. Anita B. Brody

National Football League and NLF Properties, LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

٧.

DECLARATION OF KEVIN L. GOLDEN IN SUPPORT OF OBJECTION OF ESTATE OF WALLY HILGENBERG AND ESTATE OF PETER DURANKO TO PETITION FOR ATTORNEYS FEES BY CLASS COUNSEL ANAPOL WEISS

- I, Kevin L. Golden, being duly sworn, deposes and says:
- 1. I am an attorney with the law firm Tucker Law Group, LLC.
- 2. My firm has been retained by the Estate of Wally Hilgenberg to represent its interests in opposing Class Counsel's efforts to enforce its contingent fee agreement with the Estate of Wally Hilgenberg and Class Counsel's request for a holdback against the estate's settlement funds.

3. My firm has been retained by the Estate of Peter Duranko to represent its interests in opposing Class Counsel's efforts to enforce its contingent fee agreement with the Estate of Peter Duranko and Class Counsel's request for a holdback against the estate's settlement funds.

- 4. In this capacity, my office has prepared and submitted an objection raising my clients' concerns and objections.
- 5. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 3/27/2017.

Kevin L. Golden

CERTIFICATE OF SERVICE

I, Joe H. Tucker, Jr., hereby certify that a copy of the foregoing document was filed through the Court's ECF system on March 27, 2017, and that such filing generates a notice of filing that constitutes service on all counsel of record.

/s/ Joe H. Tucker, Jr.
Joe H. Tucker, Jr.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated, No. 2:12-md-02323-AB

Plaintiffs,

MDL No. 2323

v.

Hon. Anita B. Brody

National Football League and NFL Properties, LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

NOTICE OF JOINDER IN ESTATE OF KEVIN TURNER'S RESPONSE AND LIMITED OPPOSITION TO CO-LEAD COUNSEL'S PETITION FOR AN AWARD OF ATTORNEYS' FEES AND ADOPTION OF A SET-ASIDE OF EACH MONETARY AWARD

- 1. Class plaintiff Steven Anthony Smith (Steven Smith) hereby joins, adopts, and incorporates by reference, in its entirety, Estate of Kevin Turner's response in opposition to Co-Lead Counsels' petition for an award of attorneys' fees and adoption of a set-aside of each monetary award ("Petition") (ECF No. 7205). Additionally, Steven Smith incorporates by reference in its entirety, Steven Smith's Joinder in Estate of Kevin Turner's motion to resolve attorney fee dispute, which has been filed contemporaneously. In support thereof, plaintiff asserts:
- 2. Steven Smith objects to any fees sought out of his monetary award by Class Counsel. In the event Class Counsel intends on pursuing a claim for fees based on individual

representation, Steven Smith requests assistance from the Court to prohibit such collection of fees.

- 3. This Joinder arises as a result of Co-Lead Counsel's Petition for a 5% Set Aside of Fees and Class Counsel, Podhurst's vague and misleading responses to Steven Smith's question of whether any attorneys' fees would be taken out of his \$5Million award under the settlement.
- 4. Since July of 2016, Steven Smith and his wife Chie T. Smith have inquired whether attorneys' fees will be taken out of Steven Smith's award and have not received a clear answer. In fact, they have received vague and misleading information from Podhurst Orseck P.A., Class Counsel as well as from Christopher Seeger, Co-Lead Class Counsel. To date, Steven Smith and Chie Smith remain confused and frustrated in this matter of attorneys' fees and their obligations to Class Counsel under their previous individual contingency fee agreement, which was signed in 2012 and terminated in July of 2016.
- 5. Chie Smith is not alone in the confusion and controversy surrounding her contingency fee agreement with a Class Counsel attorney. There exist other wives whose husbands similarly signed individual representation agreements with Class Counsel and are confused on the issue of whether attorneys' fees will come out of their husband's awards. Like Chie Smith, many of these wives have questioned the fairness of collecting fees from the NFL as class counsel and collecting fees from individual plaintiffs at the same time, when only class work was performed. Attached as Exhibit "A" and incorporated for reference into this Joinder is a letter addressed to Honorable Anita B. Brody dated March 20, 2017 signed by numerous plaintiffs' wives. Such letter provides notice to the Court of the existence of hundreds and thousands of contingency fee agreements executed by Class Counsel ranging from 15% -45% of

a plaintiff's recovery under the settlement. This letter also opposes and serves as an objection to

Class Counsel's petition for an award of attorneys' fees and a 5% hold back of each monetary

award.

6. In summary, Steven Smith opposes any fee award to be taken out of his

individual award, including the 5% holdback requested by Class Counsel. Steven Smith further

opposes the collection of any attorneys' fees based on the terminated retainer agreement with

Class Counsel Podhurst, and asks the Court to use its authority to prohibit Podhurst from

pursuing any claim to recover attorneys' fees out of plaintiff's award. Plaintiff remains fully

supportive of the settlement and has no objection to Class Counsel including Podhurst receiving

an award of attorneys' fees and expenses to be paid by the NFL parties. Nor does Plaintiff object

to the total amount of fees and expenses that the NFL Parties agreed to make available for an

attorney fee award. Plaintiff also does not object to Co-Lead Counsel Chris Seeger divvying up

the attorneys' fees and expenses as awarded and directed by the Court.

Respectfully submitted,

/s/ Joe H. Tucker, Jr.

Joe H. Tucker, Jr. (PA 56617)

Kevin L. Golden (PA 94210)

Tucker Law Group, LLC

Ten Penn Center

1801 Market Street, Suite 2500

Philadelphia, PA 19103

Tel: (215) 875-0609

Fax: (215) 559-6209

jtucker@tlgattorneys.com

kgolden@tlgattorneys.com

Catherina Watters (pro hac vice motion to be filed)

Catherina Watters, Attorney at Law

P.O. Box 2252

Orinda, CA 94563

Tel: (321) 278-7237

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JA7162

Fax: (407) 351-5159

catherina@changwatters.com

ATTORNEYS FOR STEVEN ANTHONY SMITH

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

MDL No. 2323

Plaintiffs,

Hon. Anita B. Brody

No. 2:12-md-02323-AB

 \mathbf{v} .

National Football League and NLF Properties, LLC, successor-in-interest to NFL Properties, Inc., No. 12-2017

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

DECLARATION OF KEVIN L. GOLDEN IN SUPPORT OF JOINDER OF STEVEN ANTHONY SMITH TO RESPONSE AND LIMITED OPPOSITION TO CO-LEAD COUNSEYLS' PETITION FOR AWARD OF ATTORNEYS' FEES

- I, Kevin L. Golden, state as follows:
- 1. I am an attorney with the law firm Tucker Law Group, LLC.
- 2. My firm has been retained by Steven A. Smith to represent him, along with Catherine Watters, in joining the Estate of Kevin Turner's response and limited objection to Co-Lead Counsel's Petition for an award of attorneys' fees.
- 3. In this capacity, my office has prepared and submitted an objection raising my clients' concerns and objections.

4. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 3/27/2017.

Kevin L. Golder

CERTIFICATE OF SERVICE

I, Joe H. Tucker, Jr., hereby certify that a copy of the foregoing document was filed through the Court's ECF system on March 27, 2017, and that such filing generates a notice of filing that constitutes service on all counsel of record.

/s/ Joe H. Tucker, Jr.
Joe H. Tucker, Jr.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION

Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated,

Plaintiffs,

V.

National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

PETITION OF OBJECTORS PRESTON AND KATHERINE JONES FOR AWARD OF ATTORNEYS' FEES FOR SUCCESSFUL EFFORTS TO IMPROVE THE SETTLEMENT FOR NFL EUROPE LEAGUE PLAYERS

Case: 18:202:2-ndocamenta-003108316592736#age:29573/27Date Filed: 208/09/2019

Class members and objectors to the June 25, 2014 proposed settlement Preston Jones and

Katherine Jones ("Jones Objectors") move under Rules 23(h) and 54(d)(2) of the Federal Rules of

Civil Procedure, and this Court's March 8, 2017 Order on briefing schedule (ECF No. 7261), for

an award of attorneys' fees for work performed in the successful effort to improve the value of the

final Class Settlement for many retired NFL players who played one or more seasons in the NFL's

Europe leagues.

The grounds for this request are set forth in the concurrently-filed Memorandum in Support

and the Declaration of James T. Capretz.

The Jones Objectors concurrently submit a proposed order with this petition, but recognize

that the Court may choose to issue one or more broader orders addressing fees and costs with

respect to multiple parties in this case.

Dated: March 27, 2017

Respectfully submitted,

/s/ James T. Capretz

James T. Capretz

CAPRETZ & ASSOCIATES

5000 Birch Street, Suite 4600

Newport Beach, California 92660

Telephone: (949) 724-3000

Facsimile: (949) 757-2635

Email: jcapretz@capretz.com

JA7168

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on all counsel of record via the Court's ECF system on Marcy 27, 2017.

<u>/s/ James T. Capretz</u> James T. Capretz